By Mr. ESCH: Joint resolution from the Legislature of Wisconsin, memoralizing Congress in regard to passports issued by the United States Government; to the Committee on Foreign Affairs.

Also, memorial from the Legislature of Wisconsin, relating to the Sherman antitrust law; to the Committee on the Judiciary.

Also, memorial from the Legislature of Wisconsin, relating to the sending into any State of money or campaign literature in violation of the corrupt-practices law of that State; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Minnesota: A bill (H. R. 11546) granting an increase of pension to John Soucek; to the Committee on Pensions.

By Mr. BATHRICK: A bill (H. R. 11547) granting an increase of pension to Cornelius Unger; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 11548) for the relief of the estate of Isaac B. Mills; to the Committee on War Claims.

By Mr. CARLIN: A bill (H. R. 11549) for the relief of Sarah A. Skinner; to the Committee on War Claims.

By Mr. DAUGHERTY: A bill (H. R. 11550) granting an increase of pension to David Linn; to the Committee on Invalid Pensions.

By Mr. KIPP: A bill (H. R. 11551) granting a pension to Wealthy J. Larrabee; to the Committee on Pensions.

Also, a bill (H. R. 11552) granting an increase of pension to Henry Stulen; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 11553) granting an increase of pension to Samuel P. Thurber; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11554) granting an increase of pension to Albert A. Hawkins; to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 11555) for the relief of Nathaniel F. Cheairs; to the Committee on War Claims.

Also, a bill (H. R. 11556) for the relief of the estates of Bolling Gordon and Richard Gordon; to the Committee on War Claims.

Also, a bill (H. R. 11557) granting a pension to R. T. Crews; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11558) granting a pension to Stephen Anderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11559) granting an increase of pension to Thomas Horner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11560) granting an increase of pension to Gustave Freudenthal; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11561) granting an increase of pension to Joseph Beiser; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11562) granting an increase of pension to Thomas L. Ritchardson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11563) granting an increase of pension to Jackson Goodman; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 11564) granting an increase of pension to J. S. C. Kifer; to the Committee on Invalid Pensions.

By Mr. THOMAS: A bill (H. R. 11565) granting an increase of pension to William Maynard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11566) to extend the provisions of House bill 13839, Fifty-seventh Congress, granting an increase of pension to John W. B. Huntsman; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANDERSON of Minnesota: Papers to accompany a bill granting an increase of pension to John Soucek; to the Committee on Pensions.

By Mr. BURKE of Wisconsin: Affidavit in support of House bill 11056, granting an increase of pension to Lyman A. Babcock; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: Papers accompanying a bill for the relief of the estate of Isaac B. Mills; to the Committee on War Claims.

By Mr. HARRISON of New York: Petition of 11 business men of sixteenth congressional district of New York, also of the members of the Miami and the Wichita Clubs, for the repeal of the duty on lemons; to the Committee on Ways and Means.

By Mr. KONOP: Petition of John Maurer and others, of Appleton, Wis., requesting a reduction in the duties on sugar; to the Committee on Ways and Means.

By Mr. McKINNEY: Petition of the H. W. Cooper Saddlery Hardware Manufacturing Co., Moline, Ill., inclosing and favoring the resolutions passed by the Illinois Manufacturing Association for a change in the date for making returns by corporations and companies under the Federal corporation-tax law; to the Committee on the Judiciary.

By Mr. MORGAN: Petitions from citizens of the second congressional district, State of Oklahoma, protesting against the passage of Senate bill 237; to the Committee on the District of Columbia.

By Mr. O'SHAUNESSY: Resolution by the Officers' Association, Rhode Island National Guard, favoring the passage of bill to further increase the efficiency of the Organized Militia of the United States; to the Committee on Military Affairs.

By Mr. SWEET: Petition of Homer L. Boyle, of Lansing, Mich., for a law to check and prohibit the enlarging and spreading of war sentiment; to the Committee on the Judiciary.

By Mr. TALCOTT of New York: Petition of numerous citizens, for a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. THOMAS: Petition of sundry citizens of Muhlenberg County, Ky., requesting Congress to pass the Berger resolution to investigate the arrest and kidnaping of John J. McNamara, in Indiana; to the Committee on Rules.

By Mr. UTTER: Petition of the Officers' Association, Rhode Island National Guard, favoring the so-called militia pay bill; to the Committee on Military Affairs.

Also, petition of Arthur P. Sanhorn, of Providence, R. I., against the passage of the bill placing a stamp tax on proprietary medicines; to the Committee on Ways and Means.

SENATE.

TUESDAY, *June 13, 1911.*

The Senate met at 2 o'clock p. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

THE JOURNAL—VOTE OF THE VICE PRESIDENT.

The Secretary proceeded to read the Journal of yesterday's proceedings.

Mr. BRANDEGEE. I ask unanimous consent that the further reading of the Journal be dispensed with.

Mr. BACON. Mr. President, I object. I desire to have the Journal read.

The VICE PRESIDENT. Objection is made. The Secretary will continue the reading.

The Secretary resumed and concluded the reading of the Journal.

Mr. BACON. Mr. President, I note an omission in the RECORD. I do not know whether the same omission occurs in the Journal. It is an omission to put the name of the Senator from South Carolina [Mr. TILLMAN] at the end of the last two roll calls as not voting.

The VICE PRESIDENT. The Secretary informs the Chair that it has been corrected in both the RECORD and the Journal.

Mr. BACON. The omission occurs in the RECORD which has been furnished to us.

Now, Mr. President, as to another matter to which I desire to call attention before the approval of the Journal, and that is to that part of the Journal which recites the fact that the Senate, being evenly divided upon what we know as the Bristow amendment, the casting vote was given by the Vice President.

I desire to say, Mr. President, that, in my judgment, not only was it a matter of original impression, but upon reflection and examination, so far as the limited time has given me an opportunity to make an examination, in my opinion, with all deference to the Chair, which I am sure the Chair will not misunderstand, that the Vice President was not authorized to vote upon that occasion, and I want to give very briefly the reasons in order that the matter may be of record.

I recognize, of course, Mr. President, that the vote of the Vice President was cast under the authority assumed to be conferred by the clause in the Constitution, which is in this language:

> The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

Of course, according to the letter of that phraseology the Vice President would have the right to vote when the Senate under any circumstances and upon any question should be

equally divided, but I think the context, and when I say context I mean other parts of the Constitution, and the manifest purpose of it will necessarily confine the exercise of that function by the Vice President to an occasion in the ordinary business of the Senate, either a matter of legislation, in the enactment of law by Congress, or by any order which may be taken by means of a concurrent resolution between the two Houses as to the order of business, or as to the length of the session, or anything else which concerns in common the two Houses, or as to any order of the Senate which concerns the business of the Senate. For instance, undoubtedly upon a motion to adjourn, which concerns the orderly procedure of the Senate, if there was an equal division the Vice President would have the right to give the casting vote under that authority.

But my proposition, Mr. President, is this: I, of course, would yield to the opinion which upon this exact matter might be expressed in any previous act of the Senate if it could be shown that that act was the result of due deliberation and examination as to the correct method of procedure. My proposition is that as to matters which do not relate to the ordinary business of the Senate, matters which do not relate to measure of legislation by Congress or to the reciprocal or common business of the two Houses, or a matter which does not relate to any particular proceeding of the Senate, the Vice President, not being a Member of this body, has not the right to vote. While expressing that thus generally, my precise contention is that this particular resolution is one upon which the Vice President has no authority to vote.

Mr. President, the provision in the Constitution is without qualification or exception, and yet I want to call the attention of the Chair and of the Senate to the fact that a provision in the Constitution equally as explicit and equally as unqualified is universally held not to apply to a case outside of the particular class of functions I have enumerated. I will read that for the purpose of illustration of the fact that the mere want of qualification does not necessarily carry with it the conclusion that there is no qualification if other parts of the Constitution and the universal practice of the Government shall establish to the contrary.

There is this clause also in the Constitution without any qualification or limitation:

> Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and before the same shall take effect shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Mr. President, there could be no more explicit language than that. That language is not less absolutely free from qualification than is the language in the provision which I first read, where it says that the Vice President shall vote when the Senate shall be equally divided. Yet it is a fact recognized by all lawyers, a fact universally recognized by all the departments of the Government, that such a resolution as that which we passed last night has not to be sent to the President, that it has not to have the approval of the President of the United States; that the President of the United States has nothing to do with it; that he can neither approve it nor disapprove it; and that neither his approval nor his disapproval will in any manner affect or qualify the action of the Senate and of the House in the passage of such a resolution.

Now, Mr. President, what does that show? It proves, in the first place, that the contention that the Vice President had the right to vote can not be based solely upon the ground that there is the unqualified language of the Constitution stating that he shall vote in a case where the Senate shall be equally divided, because that language is not more explicit, it is not more unqualified, than is the language which says that every resolution when it passes Congress shall be sent to the President and shall not be of effect without the approval of the President, unless in the manner prescribed by law it shall receive the requisite two-thirds vote of the two Houses after having been returned by the President with his objections.

Here it so happens that the very resolution which, for the reason stated, is one not to be approved or disapproved by the President, upon which the Vice President voted, is the same resolution, and, I think, upon the same reason denies to the Vice President the right to give a casting vote.

Mr. President, the passage of a resolution proposing to the legislatures of the States the adoption of an amendment to the Constitution is not an act of legislation. It has none of the features of an act of legislation. It has none of the requirements of legislation, except so far as it must receive the affirmative vote of the requisite number prescribed in each House. But it has not the effect of law. It is simply the presentation of a proposition to the tribunal which is to determine it, which is, at last, the legislatures of the States.

It was the design and purpose that the two Houses in their high capacity, one as the representative of States in this Chamber and the other as the representative of the people, should themselves determine it; that it should be, if a requisite number of them so determined, presented to the legislatures; and there is, in my opinion, no proper construction by which it was intended that when less than the number prescribed by the Constitution were secured in support of a measure it could be supplemented by the vote of anyone who does not belong to this body.

Mr. President, I very greatly prize the feature in our Government which calls the second highest officer of the Government to preside over our deliberations. I would not have it otherwise. I am extremely glad of the fact that it is as it is. But, Mr. President, we must look at the limitations. The Vice President is the presiding officer, and it is only in a case where, as I contend, in the ordinary procedure a tie for the time arising by reason of the fact that the Senate is equally divided that there has been the means provided for the unlocking of that temporary deadlock. But it does not come up at all—it does not in any manner reach into the same atmosphere as that which surrounds the Members of the Senate when they are called upon to perform this high function of proposing an amendment to the Constitution.

Mr. President, the Senate is intended to be here as the representative of the States, and there was the double precaution taken that before this instrument, held to be so sacred, should be changed, there must be two-thirds of the Senators to agree upon it—they were the parties selected—and it was never contemplated, in my judgment, that the absence of two-thirds could be supplemented by the vote of the Presiding Officer, who is not a Member of the body. I think the argument could be made very much more manifest, Mr. President, in a case where the final action was the action of a divided body than where it is the action upon one of the preliminary steps in reaching that final act.

But before coming to that I want to illustrate further the fact that there are occasions necessarily where the body may be evenly divided where the vote of a Vice President would be manifestly improper. I will call attention to another provision of the Constitution for illustration of that suggestion. The Constitution, in the twelfth amendment, prescribes the manner in which a Vice President shall be elected in case the electors chosen by the people shall fail to make an election by a majority vote. It is provided in the Constitution that when that arises the Senate shall, of the highest two, choose the Vice President and elect him. If such a case were presented and the Senate were called upon to choose a Vice President and the Senate should be equally divided, is there any lawyer, is there any person, who would possibly suggest that the Vice President would have a right to vote in the choice of a Vice President under those circumstances?

Mr. LODGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Massachusetts?

Mr. BACON. I do.

Mr. LODGE. In the suggestion the Senator has just made, of course the Vice President could not cast a vote, because there would be no Vice President.

Mr. BACON. The Senator is entirely mistaken.

Mr. LODGE. How so?

Mr. BACON. I think he is, though I may be mistaken myself.

Mr. LODGE. Will the Senator state how the Vice President in such a case could cast a vote?

Mr. BACON. If the Senator will permit me, I will state.

Mr. LODGE. I should like to hear explained how that could arise if there was not a Vice President in the chair.

Mr. BACON. The provision refers to the Vice President, who is to be inducted into office on the 4th of March, and, of course, the election would be held in the Senate prior to the 3d of March, when that Vice President is still in office. That is what I refer to.

Mr. LODGE. Is that the provision of law, that such election shall be held prior to the Vice President going out?

Mr. BACON. Most undoubtedly it would be.

Mr. LODGE. Because at 12 o'clock on that day the old Vice President is out of office. I should like the Senator from Georgia to look at the case which arose in 1825 and see when they voted.

Mr. BACON. That does not change the fact, for they could vote before.

Mr. LODGE. How could they vote before?

Mr. BACON. It does not say——

Mr. LODGE. How could they vote before the new Senate came into existence. The old Senate, the outgoing Senate, could not elect a Vice President for the new Senate, for the new government.

Mr. BACON. Possibly not. The Senator from Massachusetts possibly is correct in that; but, Mr. President, I will put it then as a supposititious case. Suppose it were possible that the election were to be held at a time when the Vice President was still in office. The Senator from Massachusetts may be correct in his criticism; I recognize that. For the moment that had escaped me. But for the purpose of illustration it can be used in the same way. Suppose it were provided that the old Senate should elect before the 4th of March in order to prevent an interregnum—we can very readily understand the reason for such a provision—would anyone contend that the Vice President could vote upon such a question as that?

But I will come to another case that would be more directly within the probabilities. The Senate elects its own committees. It is true we do not usually have elections formally because of the fact that generally the majority of one party is recognized by the minority, and it is done by a simple motion and upon a vote not in the nature of an election; but suppose, as I have seen it in the Senate, the two parties were equally divided and did not agree as to the distribution of the committees, and there should be a contest as to the election of committees; the one side presents one set of Senators to form committees and the other side presents another set of Senators for committees, and there is an election held. Will anybody hold that the Vice President would have the right to vote in the formation of those committees?

When we elect the officers of this Chamber, the Secretary or the Sergeant at Arms, does anybody hold that if the Senate were equally divided on the choice of those two the Vice President would have the right to vote? I do not think, Mr. President, anybody would contend that such was the case. While the criticism of the Senator from Massachusetts may be correct, and I stand corrected on it for the moment, that thought had not presented itself to me. For the purpose of illustration it is just as strong as if it were true that the old Senate elected prior to the 4th of March.

Mr. President, the strong proposition, to my mind, is this: I presume it will be conceded by everyone, coming back from the general illustration to the particular joint resolution in point, that when this joint resolution shall have been agreed upon by the two Houses the President of the United States, under the general provision of the Constitution which I have read, which says that every resolution must be sent to the President and approved or disapproved by him, will not have the function of approving or disapproving of this joint resolution because of the fact that it is one in which the function has been peculiarly confided to Senators and requires that there shall be a certain majority of Senators agreeing thereto. It is not a matter of ordinary legislation. The same reason which has caused it to be universally recognized that the President of the United States can neither approve or disapprove of a resolution proposing an amendment to the Constitution, I respectfully submit, will apply to the question of whether or not the Vice President has a right in the case of a tie to give a casting vote; and, in my opinion, it precludes him from the exercise of that right.

I presume that it will be said that the vote cast by the Vice President was not upon the final passage of the joint resolution, but upon an intermediate proposition. I do not think that in any manner changes the conclusion which can properly be reached in the question. I think that the consideration of a joint resolution to amend the Constitution is still a peculiar function in which every step is one vital to the last step, and in which all the steps are those confided to the judgment and decision of Senators, which can not be added to or subtracted from by the aid of one who is not included among the number of Senators.

Mr. HEYBURN. Mr. President, will the Senator permit me to call his attention to an authority?

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Idaho?

Mr. BACON. I do.

Mr. HEYBURN. Mr. President, on page 451 of Precedents—Decisions on Points of Order in the United States Senate, a volume which all Senators have, there appears a decision right in point in regard to the right of the Vice President to vote in the case of the election of an officer of this body where there is a tie vote, and if it would not interrupt the Senator too much I would call attention to it.

Mr. BACON. I would be very glad to hear it.

Mr. HEYBURN. It is as follows:

[31st Cong., 1st sess., Journal, p. 68. Jan. 9, 1850.]

The Senate proceeded to consider the resolution submitted by Mr. Foote, "that two chaplains, of different denominations, be appointed to Congress during the present session, one by each House, who shall interchange weekly," and the resolution was agreed to.

The Senate proceeded to the election of a chaplain; and

It appearing that 60 votes had been given, 30 of which were for the Rev. C. M. Butler and 30 for the Rev. Henry Slicer,

The Senate being equally divided, the Vice President (Mr. Fillmore) voted for the Rev. C. M. Butler, who was accordingly elected. (See Cong. Globe, pp. 127–128.)

During the debate on the right of the Vice President to vote for an officer of the Senate Mr. Calhoun, who had been Vice President, said: "As the very experienced Senator behind me [Mr. King] is mistaken on the subject of Executive nominations (he claiming the Vice President could only vote in legislative matters), I deem it my duty to say that I, in several instances when I occupied the chair, cast my vote on such nominations. I did so January 25, 1832, in the very celebrated case of Mr. Van Buren for minister to England, and in two or three others." (See Cong. Globe, pp. 127–128.)

That would seem to throw some light on the power of the Vice President to vote.

Mr. BACON. That is a precedent; but, Mr. President, I confess that, while I would not be greatly surprised to hear of a precedent of the Vice President voting upon the election of an officer of the Chamber—which is a matter of comparative insignificance and probably not given very much attention and thought to—I am very greatly surprised to know that it has ever been held that the Vice President had a right to vote upon the question of the nomination of an officer for appointment to office.

Mr. HEYBURN. In executive session.

Mr. BACON. In executive session. I say I am surprised to hear that; but the Senator will mark that what I have said in regard to those matters has been by way of illustration. They do not come up to the vital question as to the right of the Vice President to vote in case of a tie in a matter which is set apart from the usual functions of the Senate, an office to be performed of an entirely different character from the ordinary duties of the Senate, something which is intended to be determined by the votes of those who are the representatives of the States in the one instance and of the people in the other, in which the peculiar function is so marked that it has been always recognized that the President of the United States has no right to either approve or disapprove of a resolution proposing an amendment to the Constitution of the United States. If the President of the United States has no right to approve or disapprove of such a resolution, although the constitutional requirement is that every resolution must be sent to him, it seems to me the argument is irresistible that it is a function separate and apart from all ordinary functions; it is one in which the requisite number of the Senate must be had to give force and effect to the action; and it is one so entirely separate and apart that it can not be judged of by any other function which the Senate may be called upon to perform.

Mr. President, I do not know that there is any practical way to reach this matter, and it is not my purpose to make any proposition with that view. I simply desired that the matter should be put upon the record in order that the action of the Vice President may not be considered as a precedent which has passed unchallenged.

When the Senator from Missouri [Mr. REED] rose last night I rose at the same time—I happened to be standing back of the desks at the time—for the purpose of making the same suggestions which he made, and I would at that time have supported what he said but for the very prompt interposition of the Senator from New Hampshire [Mr. GALLINGER] with the statement that upon an examination of the precedents it would be found all the other way. I supposed, of course, that the Senator had some direct precedents, and I deemed it proper to look at them before making any statement to the Senate. I have inquired of the Senator from New Hampshire this morning, and he tells me he knows of none.

I desire to say, Mr. President, that in a matter of such far-reaching and vital importance the simple fact of a precedent should not of itself be controlling. I will say, however, that if Senators can show a well-considered precedent that has been the result of the examination of able lawyers who have been in this body, such men as Senator George, of Mississippi, or Senator Edmunds, of Vermont, or the former Senator from Indiana, Mr. Turpie, or, still later, the very brilliant and able Senator from Wisconsin, Mr. Spooner—if it could be shown that they and others whom I could mention, Mr. Hoar and numbers of other able lawyers, Mr. Platt, of Connecticut, and others who have been in this body and who have honored it, or, as has been suggested to me, that lawyer second to none, Mr. Thurman, of Ohio—if such men as these had examined this precise

question and had come to a conclusion, I would yield my judgment; but, Mr. President, with the limited time I have had to consider this matter, I am very strongly of the opinion that the Vice President had not the authority to vote; and if he did not vote, of course the decision would have been the other way, because the tie vote would have lost the affirmative.

Mr. GORE. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Oklahoma?

Mr. BACON. I yield.

Mr. GORE. Mr. President, I came into the Chamber in the midst of the Senator's remarks, and I do not know whether or not he has touched upon the point I am about to suggest. If not, I would like to have his opinion upon the question whether, if upon the final passage of the joint resolution on yesterday the vote had stood 65 to 33, the Vice President could have voted in the affirmative, thus furnishing the requisite two-thirds majority and have passed the joint resolution; or whether, if the vote had stood 33 to 66, the Vice President could have voted in the negative, raising the negative vote to 34, and by that means have defeated the joint resolution?

Mr. BACON. I think not; and I do not think the Vice President himself would so claim, because the language of the provision in the Constitution does not refer to a case of that kind. That makes it, I say again, Mr. President, the more surprising to me that Mr. Calhoun should have made the statement in the Senate which the Senator from Idaho [Mr. HEYBURN] has read, because the matter of the confirmation of an officer—or was it a treaty? I was thinking of a treaty which would require two-thirds——

Mr. SHIVELY. It was on the confirmation of Van Buren.

Mr. BACON. That makes it a different thing altogether.

Mr. SHIVELY. If the Senator will permit me, the reference recalls a very interesting political incident. Jackson was President and Calhoun Vice President. A decided coolness had arisen between the two. Henry Clay was very far from being disposed to compose their differences. In the vacation of Congress President Jackson had nominated Martin Van Buren as minister to England. Van Buren had gone to his post of duty at the Court of St. James. When the nomination came on for confirmation the forces in the Senate were maneuvered to produce a tie. The tie was produced. Calhoun, as Vice President, broke the tie, and broke it against the confirmation of Van Buren. Within a few minutes after the vote was announced a Senator said to Calhoun, "You spoiled a minister to England, but made a President of the United States."

Mr. BACON. Mr. President, it may have been the result of some political maneuvering. Of course we have no presentation of that kind here at all. It may be that such things arise frequently, and precedents are made in some such way as that narrated by the Senator from Indiana. Many precedents have no value, because they are made by Senators voting on small matters on party lines.

I was about to say, Mr. President, that I do not know of any practical way in which this matter can now be dealt with. The proper time, of course, to have made the point was when the Vice President announced the vote. If the view which I take of it is correct, the vote should have been announced the other way. It should have been announced, according to the view I take of the authority of the Vice President, that there being a tie, the affirmative failed and the amendment of the Senator from Kansas [Mr. BRISTOW] was lost. That I think was the proper parliamentary situation, and then was the proper time to have raised the point of order that the Vice President did not have authority under the law to vote, and that the tie vote must be announced as a failure of the amendment.

I beg pardon for having taken so much time, but I think it is an important question, and I want to say this: First impressions are very dangerous things in law, and I recognized that fact and gave due weight to it in the thought which I have given to it since then, and outside of the illustrations I have attempted to present as to the fact that there were functions performed by the Senate in which the Vice President could not properly take a part—those of themselves would not have been controlling—the thing which has brought my mind to its final conclusion and about which I should like those who differ with me to show the incorrectness of the conclusion is the particular one I have mentioned, that this is a joint resolution so separate and apart from all other acts by the two Houses of Congress that while it falls within the letter of the law and is a resolution requiring the joint action of the two Houses, it is nevertheless one as to which the universal recognition is that the President of the United States has no function to perform in connection with it and can neither approve it nor disapprove it; and for the same reason, in my judgment, the Vice President in the case——

Mr. LODGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Massachusetts?

Mr. BACON. One moment, if the Senator will pardon me.

Mr. LODGE. I wish to say, before the Senator from Georgia takes his seat——

Mr. BACON. I want to simply finish the sentence to the effect that for the same reason that the President of the United States is not recognized as having any function to perform in the approval or disapproval of this particular resolution, in my judgment the Vice President has no office to perform in regard thereto, and can not either upon the final vote or upon any intermediate vote vital to that final vote affect the result by his vote.

Mr. GALLINGER. Mr. President, I have listened with great care and interest to the observations of the honorable Senator from Georgia [Mr. BACON], but I am constrained to the conclusion that his objections are fanciful rather than practical, and that they will not be sustained when the precedents are considered and when the provision of the Constitution is fairly interpreted.

The Senator from Georgia is mistaken in saying that I somewhat abruptly broke in last evening to say that the precedents were against the contention made by the Senator from Missouri [Mr. REED]. What I did say was this:

I think, Mr. President, when the Senator from Missouri does examine the matter—

The Senator from Missouri having expressed some doubt on the point—

he will be satisfied that the Chair acted within his constitutional rights.

That is what I said, as reference to the CONGRESSIONAL RECORD will show.

I did not then allude to any precedents. I did not think it was necessary. I had in mind the explicit provision of the Constitution of the United States which says:

The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

That is what I had in mind, and I thought that was sufficient to warrant the Vice President in casting the deciding vote.

The Senator from Georgia seems to argue that the function of the Vice President is to break a deadlock. That is not the function of the Vice President's vote at all. No deadlock can occur when a tie vote happens in the Senate on a proposition such as was before it last evening. The amendment of the Senator from Kansas [Mr. BRISTOW] would have failed had the Vice President not voted, and no deadlock would have resulted.

Mr. President, the Senator from Georgia, arguing that the Vice President can not vote on collateral questions, has been answered very pointedly by the Senator from Idaho [Mr. HEYBURN], who has quoted a precedent that is directly in order. It goes back to the Thirty-first Congress, and it is there laid down by as eminent an authority as Mr. Calhoun, who had been Vice President, that he had frequently voted on questions of that kind.

But I have before me a more pointed precedent, and I trust the Senator from Georgia will listen to it. It occurred in the first session of the Forty-fifth Congress. The facts are these:

On the motion to proceed to the consideration of the resolution to admit William Pitt Kellogg to a seat in the Senate, the yeas were 29 and the nays were 29. The vote of the Senate being equally divided, the Vice President (Mr. Wheeler) voted in the affirmative, and the Senate proceeded to the consideration of the resolution.

Mr. Thurman moved to amend by striking out all after "*Resolved,*" and inserting:

"That M. C. Butler be now sworn as a Senator from the State of South Carolina."

The yeas were 30 and the nays were 30.

The vote of the Senate being again equally divided, the Vice President (Mr. Wheeler) voted in the negative, and the amendment was not agreed to.

Mr. Thurman has been quoted by the Senator from Georgia as an authority he would like to have cited in this instance, a great lawyer, a great presiding officer—

Mr. Thurman rose to a question of order, and submitted that the provision of the Constitution that the Vice President shall have no vote unless where the Senate is equally divided does not apply to the case of seating a Member, but that questions of seating a Member should be left to the Senators themselves, under the provision that "each House shall be the judge of the elections, qualifications, and returns of its own Members," and after debate Mr. Thurman withdrew the question of order.

So, Mr. President, not only did the Vice President in the early days of the Republic, when Mr. Calhoun presided over this body, give the casting vote on the election of a Chaplain, but at a later time Mr. Wheeler, a distinguished gentleman, who presided over this body, cast his vote in the matter of seating a Senator; and Mr. Thurman, having raised substantially the

same question as the Senator from Georgia raises to-day, argued it, and, after giving it due consideration, withdrew the point of order and a Senator was seated by the casting vote of the Vice President.

Mr. BAILEY. Mr. President——

The VICE PRESIDENT. Does the Senator from New Hampshire yield to the Senator from Texas?

Mr. GALLINGER. Certainly.

Mr. BAILEY. Not to interpose on the particular matter—that is, as to the amendment—I think if it were possible for the Senate to tie on the adoption of the joint resolution itself, although I think that is a mathematical impossibility; but if it should happen, or if it could happen, then, I think, according to the plain letter of the Constitution, the Vice President could not cast a vote, because if you will read the language you will see it is—

> The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

I think by the very force of the term if it were two-thirds against one-third and that could possibly eventuate in a tie, under the very language of the Constitution the Vice President would not be permitted to vote.

Mr. GALLINGER. I think the Senator from Texas is right on the point he makes.

Mr. WORKS. Mr. President——

The VICE PRESIDENT. Does the Senator from New Hampshire yield to the Senator from California?

Mr. GALLINGER. I will conclude in just a moment.

The VICE PRESIDENT. The Senator from New Hampshire prefers not to be interrupted.

Mr. GALLINGER. I think in the case cited by the Senator from Texas that is true, but in this case the Senate was equally divided, and the language of the Constitution is absoltuely explicit and without qualification. It is laid down in the Constitution, repeated in Jefferson's Manual, that the Vice President shall on occasions of that kind give the deciding vote. While I have not looked up all the precedents, the Senator from Idaho [Mr. HEYBURN] has cited one precedent; I have cited another that I think will be somewhat troublesome to the Senator from Georgia if he undertakes to establish his contention that the Vice President was not warranted in voting as he did on the Bristow amendment.

Mr. BACON. Will the Senator from New Hampshire permit me for a moment?

Mr. GALLINGER. Certainly.

Mr. BACON. What the Senator has cited in the way of precedents might be in a degree controlling as to the infelicity, if I may so speak, of some of my illustrations. But as the Senator says that the Constitution is explicit in its language that the Vice President shall vote when the Senate is equally divided, what I want to ask of the learned Senator is this: The language of the Constitution is equally explicit that the President of the United States shall sign every resolution before it shall take effect, and yet I think the Senator himself will concede that this particular joint resolution would take effect without the signature of the President. I should like to ask the Senator how it is that the language shall be controlling—the literal language—as to the right of the Vice President with respect to this particular joint resolution, and shall not be controlling as to the President with respect to this particular joint resolution.

Mr. GALLINGER. I think that does not need any serious discussion.

Mr. BACON. I will say to the Senator, before he replies—I will not take the time to do it now, because other Senators want to be heard—I have some authority from the Supreme Court of the United States that I will read a little later.

Mr. GALLINGER. I think the contention of the Senator as to the other clause of the Constitution is rather academic. It is true that the question that was before the Senate yesterday was out of the usual order; it was a joint resolution that did not require the signature of the President; and yet I do not see how that invalidates the clear and explicit and unqualified declaration of the Constitution that when the Senate is equally divided the Vice President shall cast his vote.

I am content to rest my contention, Mr. President, upon the language of the Constitution; and inasmuch as the Senator from Georgia was desirous that precedents should be forthcoming, I am willing to have it fortified by the precedent cited by the Senator from Idaho [Mr. HEYBURN], and the very illuminating precedent I have read to the Senate in the case where the Vice President cast his vote on the question of seating a Senator in this body. If more precedents are demanded they can doubtless be found, but it seems to me that those already given are sufficient.

Mr. CULBERSON. Mr. President, when this point was made last night by the Senator from Missouri [Mr. REED] it occurred to me that it was not well taken, and I called his attention to the express provision of the Constitution on the subject, which has been read by the Senator from Georgia. The more I think of it, however, the more doubtful I am of the legality of the vote which was cast by the Vice President upon that occasion; and I will ask the indulgence of the Senate to state quite briefly why I am in doubt about it, rather leaning to the view that the vote ought not to have been cast.

The Constitution provides that—

> The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

In the same article of the Constitution, and it is important to bear in mind that this is in the article which constitutes the legislative branch of the United States Government, not the executive or judicial or general clauses, it is also provided that—

> Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Those two provisions, I repeat, are in that article of the Constitution which creates the legislative branch of the Government, and obviously they refer to matters of legislation, rather than matters extraneous to legislation.

The Senator from Georgia has pressed what I regard as the vital question in this case, and that is, if the President of the United States is not required or authorized to approve a constitutional amendment passed by two-thirds of the Senate, why is the Vice President allowed to cast a vote with reference to that matter when the language in the two cases is equally general and explicit?

Now, we are not without authority, Mr. President, so far as the action of the President of the United States is concerned on the subject of amendments to the Constitution. I invite the attention of the Senate to the case of Hollingsworth et al. *v.* Virginia, in the Third Dallas, page 378, a case arising on the question whether or not the eleventh amendment of the Constitution had been properly passed by the Congress and properly adopted by the States of the Union. That amendment, as every Senator knows, has reference to the judiciary article, prohibiting the suing of any State of the Union. In that case the President, as I gather it from the facts—the President did not approve the proposal to amend the Constitution in that respect, and it was objected in the Supreme Court of the United States that the amendment had not been proposed in the manner provided by the Constitution. Now, let us see. The Attorney General of the United States, Mr. Lee—and I read from his argument as reported in the volume of the reports—said:

> Two objections are made: First, that the amendment has not been proposed in due form. But has not the same course been pursued relative to all the other amendments that have been adopted? And the case of amendments is evidently a substantive act.

I invite the attention of Senators particularly to this language of the Attorney General, and later I will invite the attention of the Senate to the language of the Supreme Court on the subject:

> And the case of amendments is evidently a substantive act, unconnected with the ordinary business of legislation and not within the policy or terms of investing the President with a qualified negative on the acts and resolutions of Congress.

Mr. Justice Chase, of the Supreme Court, interrupted the Attorney General at this point in the argument and said:

> There can surely be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation; he has nothing to do with the proposition or adoption of amendments to the Constitution.

Mr. President, when the court came to render its decision we find this, and only this, in the report:

> The court on the day succeeding the argument——

Mr. HEYBURN. If the Senator will permit an interruption there——

Mr. CULBERSON. Wait until I finish reading this opinion of the court, if the Senator please.

Mr. HEYBURN. It applied to what the Senator just read.

The VICE PRESIDENT. The Senator from Texas declines to be interrupted.

Mr. CULBERSON (reading):

> The court on the day succeeding the argument delivered an unanimous opinion that the amendment, being constitutionally adopted, there

could not be exercised any jurisdiction in any case, past or future, in which a State was sued by the citizens of another State or by citizens or subjects of any foreign State.

So, Mr. President, these two provisions of the Constitution being in the same article on the general subject of legislation, the creation of the legislative branch of the Government of the United States, and that of the Vice President being no more general and no more specific than that which invests the President with the veto power, and the Supreme Court of the United States having decided that the President had no constitutional authority in connection with proposals to amend the Constitution, I believe that the proposition made by the Senator from Missouri [Mr. REED] yesterday and by the Senator from Georgia [Mr. BACON[this morning is plausible, and in my judgment is entitled to our serious consideration.

Mr. LODGE. Mr. President, I had in my mind when I asked the question of the Senator from Georgia that there had been an election of Vice President, and I referred at once, I thought, to the famous election of 1824, which led to the contest in the House resulting in the election of John Quincy Adams. I did not remember what I ought to have remembered, that Mr. Calhoun was elected by the electoral vote. But I was not mistaken in my recollection that there had been a choice of Vice President by the Senate, and I ought to have seen at once that the Senator from Georgia was necessarily right when he said that he would be elected by the old Senate, because, of course, it can only appear that the electors have failed to choose a President or Vice President when the electoral vote is announced in the convention of the Houses. Then it appears, and then they act under the amendment of the Constitution providing for that. Therefore, of course, the old House, the retiring House, chose John Quincy Adams President of the United States.

The case I had in mind in the Senate and which I thought was in 1825——

Mr. BACON. Will the Senator permit me to interrupt him? My attention was diverted. Did the Senator state in what manner the Vice President was elected?

Mr. LODGE. He was elected of course by the old Senate. The Senator was quite right and I was wrong when I suggested that he was not elected by the old Senate.

Mr. BACON. Then I was a little too polite when I yielded to the Senator before. I was right then.

Mr. LODGE. The Senator was right. The case that I had before me, but I misplaced it, arose in 1837 when there was no Vice President elected by the college. Richard M. Johnson, of Kentucky, received 147 votes, but that was not a majority. Therefore they voted on the two highest names, Richard M. Johnson, of Kentucky, and Francis Granger, of New York, and this is the result of the vote in the Senate, which was the outgoing Senate, on the 4th of March, 1837: The whole number of votes was 49, and of these, 33 votes were given in favor of Richard M. Johnson, of Kentucky, 16 votes in favor of Francis Granger, of New York, and Mr. Johnson was declared Vice President, to take office on the 4th of March.

Now, Mr. President, as to the possibility which the Senator raised of the Vice President being called upon to give the casting vote for his successor, the terms of the amendment to the Constitution, Article XII, which changed the old arrangement, put it out of the power of the Vice President to cast a vote on that occasion, because it provides—

> And if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

The amendment to the Constitution fixes a different quorum for that from every other question, a quorum of two-thirds, and a majority of that quorum elects. The Vice President is not a member of the quorum; he does not count to make a quorum of the Senate. Therefore, by the explicit terms of that amendment to the Constitution, he would be excluded from voting in that case, as he is excluded from voting on a constitutional amendment by the nature of the case; you can not equally divide the Senate where two-thirds are required.

Mr. BAILEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Texas?

Mr. LODGE. Certainly.

Mr. BAILEY. I may not have understood the Senator from Massachusetts, but I understood him to say that two-thirds were required to constitute a quorum, and that a majority of that quorum——

Mr. LODGE. Precisely.

Mr. BAILEY. The Senator is mistaken. It is a majority of the whole number.

Mr. LODGE. Of the whole number; I beg the Senator's pardon. I read it hastily. It is a majority of the whole Senate, and that by its terms excludes the Vice President.

Mr. BAILEY. There could be no tie then.

Mr. LODGE. There could be no tie, of course. I want to say, what ought to have occurred to me at once when I interrupted the Senator from Georgia, that necessarily the old Senate must have chosen the Vice President, because there was no other way in which it could be done.

Mr. BACON. I am astonished that I yielded so quickly.

Mr. LODGE. So am I.

Mr. BACON. I was so impressed by the erudition of my friend from Massachusetts that I was a little startled when he told me I was wrong, and I fled a little too quickly.

Mr. HEYBURN. Mr. President, I desire to detain the Senate but a moment. I wish to call attention to the reason why the President has no veto power over a resolution proposing a change in the Constitution. It is because the resolution must have been passed by a vote equivalent to that which would overrule his veto. That is the principle behind that proposition, and it would have been a vain thing to provide that he should have anything to say.

Since I called attention to the precedent I have sent for the Congressional Globe, and it may be well to carry forward some of the wisdom of the Congress of 1850, because it gives us a much clearer light upon what Mr. Calhoun said when he referred to Mr. King's judgment. Mr. King said:

> I suppose it is now to be decided whether this clause of the Constitution applies to elections that are required to take place in this body. Heretofore it has been considered as applying to legislative action alone, and never in any case, so far as I know, to the election of officers of any description in this body. Therefore it is now to be decided whether the clause of the Constitution referred to is to be extended in its operation to elections as well as legislative action, for I know of no rule whatever that has ever been adopted by the Senate on the subject. For myself, I shall be satisfied with the decision of the question in any way that the Senate may think proper. I will only repeat that it is the first time I have ever known the question to be made, and my mind not having been turned to the subject heretofore I have supposed the clause referred to legislative measures alone and not to elections.

Then Senator Berrien, of Georgia, interposes and says:

> I can not conceive how it is possible by any action of the Senate to limit the expressions of the Constitution, which are in themselves so general as to comprehend every vote that may be taken in the Senate.
>
> "The Vice President shall be the President of the Senate, but shall have no vote except when the Senate are equally divided."
>
> Now it is proposed, by one construction which is offered, to limit the equal division to cases of legislation; but the Constitution contemplated that the Senate should perform other duties besides those which are merely legislative. There are executive duties, and when the Senate is equally divided in the discharge of their executive duties, the Vice President must give the casting vote.
>
> Mr. KING. Clearly the Vice President has no power to vote on executive nominations, because if the Senate is equally divided in regard to the propriety of their confirmation they are rejected.
>
> Mr. BERRIEN. But if any resolution should be introduced referring to executive business, and the Senate should be equally divided, undoubtedly the Vice President would have a right to vote. And suppose this question was now in this form, "Resolved, That A B be appointed Chaplain to the Senate," and that upon that question the Senate was equally divided, most unquestionably the Vice President, in the exercise of his power, would give the casting vote. But it seems to me unwise to reason on this subject by attempted analogy, because the language of the Constitution is too plain to admit of a diverse construction. The twenty-first rule is but an affirmance of the provisions of the Constitution. It is:
>
> "When the Senate are equally divided, the Secretary shall take the decision of the President."
>
> Mr. CALHOUN.—

This is where he refers to his dissension with Mr. King—

> As the very experienced Senator behind me, Mr. King, is mistaken on the subject of Executive nominations, I deem it my duty to say that I, in several instances when I occupied the Chair, cast my vote on such nominations. I did so in the very celebrated case of Mr. Van Buren, and in two or three others.

Mr. King then said:

> I am aware of that; but the individuals nominated must receive the votes of a majority of the Senate to be confirmed, and there can be no necessity, therefore, for the presiding officer to give his vote. There was no such necessity in the case of Mr. Van Buren as he was rejected if he did not receive a majority of the votes.

The discussion continued and I will ask, inasmuch as it is not more than half a column, that it be inserted in the RECORD in connection with what I have said.

The VICE PRESIDENT. Without objection the request will be granted.

The matter referred to is as follows:

> Mr. UNDERWOOD. The Constitution contemplates in the organization of this body the election of officers—the Secretary of the Senate, the Sergeant at Arms, and other officers—and the Senate can not be said to be organized until these officers are elected. Suppose an equal division in reference to their choice, are we to stand still and postpone our organization until some one of the Senators shall give way, or shall it be decided by the Presiding Officer? This view of the case seems to me to settle this question, if it be analogous.
>
> Mr. FOOTE. If the Senator will allow me, I will show that it is not analogous. The honorable Senator from Kentucky [Mr. Underwood]

will at once perceive that the officers to which he referred are necessary to the organization of the Senate, but we have been without a Chaplain for several days, and without offering any obstruction to our organization.

Mr. UNDERWOOD. True; but I was putting the question as though we were not organized and as though the division had then taken place.

Mr. FOOTE. The Senator is putting the case of the election of officers whose election is necessary to the organization of the Senate. Is that analogous to the case of the election of an officer whose election is not necessary for such organization? Clearly not; and therefore the two cases are not analogous at all. I do not think, however, that the analogy is necessary for the decision of the question.

Mr. UNDERWOOD. I think not myself. I brought the case to show that in such an instance we must remain unorganized, unless the Vice President had the power to decide. By our Constitution the Senate must always consist of an even number, two from each State, and it is but a reasonable proposition that the Vice President should decide in all cases of a tie. The framers of the Constitution must have contemplated, from the very organization of the body—two from each State—that equal division must frequently occur. I think, therefore, there can be no doubt of the right of the Presiding Officer to vote.

The VICE PRESIDENT. The Chair feels no desire to express an opinion either one way or the other; nevertheless, if the duty is imposed upon the Chair to vote, the Chair would feel guilty of a dereliction of duty not to discharge it. And as it seems to be the opinion of the Senate that the Chair has the right to vote on this occasion, unless some proposition is now made to the contrary, the Chair will proceed to vote and declare the result. The Chair waits to see if any such proposition is made.

The Chair votes for Mr. Butler, who, having received a majority of the votes, is therefore elected.

Mr. HEYBURN. The fact was that it was submitted to the Senate in this case and the Senate sustained the Chair.

Mr. BACON. What was the ruling? I did not catch it.

Mr. HEYBURN. The ruling was that the Vice President had a right to cast a vote on the election of officers of the Senate, and it was put to the Senate and they sustained the Vice President.

Mr. BACON. With the permission of the Senator, if the Senator will analyze it, it was doubtless by a party vote. All those questions are generally decided by a party vote.

Mr. HEYBURN. I will make this further suggestion: The question was also raised, although not an issue, as to whether or not the Vice President might vote in executive session.

Mr. BAILEY. What was the vote by which the Senate sustained the Chair?

Mr. HEYBURN. The vote was 30 to 30. The total number was 60.

Mr. BAILEY. But when the point of order was made and the matter submitted to the Senate, what was the vote by which the right of the Vice President to cast the deciding vote was sustained?

Mr. HEYBURN. I will read what the Vice President says.

Mr. BAILEY. Was there a roll call?

Mr. HEYBURN. There was a roll call. There were five roll calls.

Mr. BAILEY. I have not made myself clear. I understand, of course, that there was a roll call on the election of a Chaplain.

Mr. HEYBURN. Yes; there were five roll calls.

Mr. BAILEY. On that roll call the Senate divided evenly?

Mr. HEYBURN. Evenly.

Mr. BAILEY. Then the Vice President cast the deciding vote and his right to do that was challenged. Now, that was debated and finally sustained. What I desire to ask the Senator is, What was the vote by which the right of the Vice President was sustained?

Mr. HEYBURN. That is not given, but I will read what occurred.

Mr. BAILEY. I understood the Senator to say that it was submitted to the Senate, and the right of the Vice President to cast that vote affirmed by the Senate.

Mr. HEYBURN. Allow me to read it.

Mr. BAILEY. Certainly.

Mr. HEYBURN. I prefer to read it:

The VICE PRESIDENT—

After some intermediate discussion—

The VICE PRESIDENT. The Chair feels no desire to express an opinion either one way or the other; nevertheless, if the duty is imposed upon the Chair to vote, the Chair would feel guilty of a dereliction of duty not to discharge it. And as it seems to be the opinion of the Senate that the Chair has the right to vote on this occasion, unless some proposition is now made to the contrary, the Chair will proceed to vote and declare the result. The Chair waits to see if any such proposition is made.

That is in the nature of a submission of the unanimous consent—

The Chair votes for Mr. Butler, who, having received a majority of the votes, is therefore elected.

The Chair submitted it as it is customary to submit questions for unanimous consent.

Mr. BAILEY. Then that appears to have been passed without dissent.

Mr. LODGE. Yes; without dissent.

Mr. HEYBURN. That is, the equivalent.

Mr. GALLINGER. It is better.

Mr. HEYBURN. For a rule, it ought to have some stability.

Mr. WORKS. Mr. President, the Senator from New Hampshire [Mr. GALLINGER] declined to be interrupted. I did not rise to antagonize his position.

Mr. GALLINGER. Mr. President, if the Senator will permit me, I did not mean to decline, but I was just concluding what I had to say.

Mr. WORKS. I only desire to understand the full force and effect of the precedent which he cited. As I understood the precedent cited by the Senator from New Hampshire, it was at a point where a motion was made by Senator Thurman that called upon the Senate for a decision of the question, and no decision was rendered. After that motion, or whatever the form of proceeding might have been, it was withdrawn, leaving the matter entirely an open one.

I think that is true with respect to the precedent submitted by the Senator from Idaho as well. No Senator on the floor at that time raised any question as to what was the proper course to pursue.

Certainly, Mr. President, this is an important question. It may be a serious one. If the question can not be properly raised and determined by the Senate of the United States it may be raised and determined at some future time before another tribunal that may be quite disastrous to this effort to amend the Constitution.

Mr. LODGE. Will the Senator allow me?

The VICE PRESIDENT. Does the Senator from California yield to the Senator from Massachusetts?

Mr. WORKS. Certainly.

Mr. LODGE. Mr. Thurman made a point of order and then withdrew it.

Mr. WORKS. So I understood.

Mr. LODGE. He did not offer a resolution; he made a point of order. In the other case, the Chair submitted the question to the Senate, and there was no objection, and he voted.

Mr. WORKS. I did not rise for the purpose of intruding any opinion of my own on this question because I have not convinced myself, but I simply wanted to understand the precedeat cited by the Senator from New Hampshire; that is all.

Mr. GALLINGER. The point of order which Mr. Thurman made was that the Vice President shall have no vote unless where the Senate is equally divided, does not apply to the case of seating a Member, but that the question of seating a Member should be left to the Senators themselves. He made the point of order that the Vice President had no right to vote on a question of that kind, but upon reconsideration he withdrew the point of order, and the Vice President voted and decided it.

The VICE PRESIDENT. The question is on the approval of the Journal.

Mr. BACON. Mr. President, I wish to say a word more, as this is a matter of very great importance. None of the precedents which have been cited relate directly to this particular question; they do relate to matters which I had cited by way of illustration, but no one of them has the peculiar character of this particular joint resolution. All of them relate to matters which are within the ordinary functions of Congress in legislation and in ordinary methods of procedure. So, even if all those illustrations were proven to be ill founded, it would not change the gravity of the question, which I do not understand that any Senator has attempted to answer, and that is this: If it be true that this particular joint resolution proposing an amendment to the Constitution is one outside of the ordinary functions of the Senate, not belonging to the Senate as one of its legislative functions, one so perfectly recognized that not only by universal recogniton, but by the decisions of the Supreme Court of the United States, the President of the United States has no function to perform in connection with it, by every rule of analogy does not the same thing apply to the action of the Vice President?

Mr. President, I desire to read a more recent case decided by the Supreme Court of Maryland than that which was read by the learned Senator from Texas [Mr. CULBERSON].

Mr. BROWN. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Nebraska?

Mr. BACON. I will for a question.

Mr. BROWN. Before the Senator from Georgia proceeds to that case, may I call his attention to the notion which I have? He has emphasized the gravity of the question involved, because, first, an amendment to the Constituton is involved; and, second, whether or not the Vice President's deciding vote was legal becomes vital to its legal submission finally to the States. Does it not occur to the Senator that the question upon which

the Vice President voted, whether he had a right to vote or not, becomes quite immaterial when it is recalled that on the final vote, where that same joint resolution was voted upon by the Senate, it received a very large majority beyond two-thirds?

Mr. BACON. The Senator is entirely mistaken in his statement of facts—absolutely so.

Mr. BROWN. The question on which the Vice President voted——

Mr. BACON. I would suggest to the Senator that, of course, what he is now stating is in the nature of an argument. I will yield to the Senator and continue after he concludes. It is not a question he is submitting to me, but he is arguing the question, and I am perfectly willing for him to do so.

Mr. BROWN. I have not made myself understood. Is it not true that the Vice President cast the deciding vote on the substitute of the Senator from Kansas [Mr. BRISTOW] to the joint resolution offered by the Senator from Idaho [Mr. BORAH]?

Mr. BACON. Yes.

Mr. BROWN. By that deciding vote the substitute was carried?

Mr. BACON. Yes; and that is what I am complaining of.

Mr. BROWN. But the point I make is that afterwards the Senate voted again on the adoption of the Bristow resolution.

Mr. BACON. Never.

Mr. BROWN. It did not?

Mr. BACON. No; it did not.

Mr. BROWN. Does the Senator from Georgia contend that the final roll call was not on the adoption of the joint resolution offered by the Senator from Kansas as a substitute for the Borah resolution?

Mr. BACON. No; the final roll call was on the adoption of the joint resolution as thus amended.

Mr. BROWN. Exactly; but it was the same joint resolution which had been offered by the Senator from Kansas.

Mr. BACON. Not at all; it is a different proposition altogether, Mr. President. I will come to the question as to whether or not that was a vital stage in that proceeding. I am on the proposition now that this particular joint resolution proposing an amendment to the Constitution is not within the contemplation of the Constitution when it confers upon the Vice President the power to vote when the Senate is equally divided; that it is a proposition separate and apart from ordinary legislation, or any legislation ordinary or extraordinary, and that the exercise of that function is one thing of which the Senate of the United States is to judge for itself, and the matter is to be determined by the votes of the Senators and by no other person who is not a Senator. That is the proposition.

Mr. President, the Senator from Texas [Mr. CULBERSON] read the case of Hollingsworth, which is directly in point, and I have in my hand a case in One hundred and first Maryland Reports, in which that case was reviewed. The court goes on to give exactly the same reasons. It is the case of Warfield *v.* Vandiver; it is the exact question whether or not this is a matter of legislation; and, as suggested by the senior Senator from Texas [Mr. CULBERSON], is not a matter of legislation within the contemplation of that provision of the Constitution upon which the authority is based, which relates solely to matters of legislation. I will say that this case which I now read has been very kindly furnished to me by the Senator from Maryland [Mr. RAYNER].

In every jurisdiction, where the right of the President of the United States and of the governor of a State to sign or to veto a proposed constitutional amendment has been drawn in question, the courts have, without a single exception, denied the existence of such a right. By the second paragraph of section 7, Article I, of the Federal Constitution it is provided that: "Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approves he shall sign it," and the section continues in practically the same terms as those contained in section 17, article 2 of the Maryland constitution. The concluding paragraph of section 7 is in these words: "Every order, resolution, or vote to which the concurrence of the Senate and the House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill." Article V declares that "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution," etc. The Third Congress proposed to the States the eleventh amendment on September 5, 1794, and on the 8th of January, 1798, the President in a message to Congress declared that the amendment had been ratified. By the amendment it was provided that the "judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State."

In Hollingsworth *v.* Virginia (3 Dall., 378), which has been read by the Senator from Texas—

The question arose whether the eleventh amendment destroyed the jurisdiction of the Federal courts in cases to which it applied and which were pending at the time of its adoption. It was contended that the amendment had not been proposed in the form prescribed by the Constitution and was void. It appeared that it had never been submitted to the President for his approval, and it was argued that it was inoperative because the Constitution declares that "Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary * * * shall be presented to the President * * * and before the same shall take effect shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives." The Attorney General, Mr. Lee, was about to reply to this argument when he was interrupted by Mr. Justice Chase with this statement: "There can surely be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation. He has nothing to do with the proposition or adoption of amendments to the Constitution." On the following day the Supreme Court delivered a unanimous judgment that the amendment had been constitutionally adopted.

Now, Mr. President, I say no Senator has attempted to reply to the question, Why is it, if, as has been recognized from the day of the decision of the Hollingsworth case to this day, and even prior to that time, the President of the United States has no function to perform in connection with a resolution proposing an amendment to the Constitution, that the same rule does not apply to the function of the Vice President, when the authority conferred upon the Vice President is found in the same section of the Constitution which confers the other power on the President of the United States? The power, unqualified as it is, is held not to give power to the President over such a resolution. The same reason denies the exercise of a similar power over the same resolution by the Vice President. Until that is answered, Mr. President, there is a most important question for this Senate to determine, one very far-reaching in its consequences.

In regard to the suggestion, as I understand it, of the Senator from Nebraska [Mr. BROWN] the question upon the adoption of the Bristow amendment was a vital question. It was a question which determined the vote of many Senators on the final passage of the joint resolution. The substitute offered by the Senator from Kansas was not objected to in its totality, but in regard to and in respect of a particular clause of it. When that clause was in issue, that was the question which was voted upon by Senators at the time when the Vice President gave the casting vote. The other parts of it were not under consideration and did not affect the vote. After it had been determined, the vote having a conclusive determination upon that particular part of it, Senators again divided, and some who had opposed that particular part of it and who had voted against the amendment because it contained that particular feature afterwards voted for the entire joint resolution. That it was vital can not be more strongly illustrated than in my own case. The amendment of the Senator from Kansas without the vote of the Vice President was lost, and with it lost I should have voted for the joint resolution, as the question would have been upon the passage of the joint resolution as it came from the Judiciary Committee, which was the same as the substitute of the Senator from Kansas except as to the particular feature that I mentioned upon which Senators had divided. However, as the result was not declared in accord with the vote of the Senate, but was declared in accordance with the vote as it was affected by the casting vote of the Vice President, I voted against the joint resolution; in other words, the vote on the Bristow amendment absolutely controlled my vote on the joint resolution, to the contrary of what it otherwise would have been.

I think, Mr. President, that this proposing an amendment to the Constitution is a matter which is not limited in any manner to the final two-thirds vote which is required by the Constitution, so far as concerns the right of the Vice President to vote, but that it is a function in all of its parts, from its beginning to its end, separate and apart from the legislative functions of the Senate, and one upon which the Vice President has not the authority to vote.

Mr. BAILEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Texas?

Mr. BACON. With pleasure.

Mr. BAILEY. I suggest to the Senator from Georgia that it might be well enough if he would enter a motion to reconsider the vote, so that he could have time to investigate the matter to his satisfaction. I merely make that as a friendly suggestion.

I also want to suggest this view to the Senator from Georgia——

Mr. LODGE. If the Senator from Texas will allow me, the motion would have to be made to reconsider the vote by which the amendment was passed.

Mr. BAILEY. I understand that.

Mr. LODGE. And, of course, the Senator from Georgia could not make that motion, because he voted against it. It could be made, however.

Mr. BAILEY. I would be willing to make that motion for the Senator from Georgia, if he should so request. I want, however, to suggest to the Senator from Georgia, for whose opinion, as he well knows and as the Senate knows, I have profound respect, that, in my opinion, the presidential approval, for which the Constitution provides, and the vote of the Vice President, which is now at issue, are very different. If the Senator will carefully examine the Constitution, with reference to the presidential approval, he will find that it requires that every order, resolution, or vote before it becomes a law shall be presented to the President.

Proposed constitutional amendments are not presented to the President for his approval, because they do not become a law by his approval. They must be ratified by the legislatures of the States or by the conventions of the States, as one or the other method may be determined upon by the Congress, and I myself rather wonder that anybody ever thought seriously of urging upon the court that it was necessary to present proposed constitutional amendments to the President for his approval.

I also call the attention of the Senator from Georgia to Article V of the Constitution, which provides—

The Congress—

I know that the President is in legislative matters considered a part of the Congress, but I think the language which follows differentiates this case—

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments.

And so forth.

Now, in the latter case the duty of Congress is imperative whenever two-thirds of the legislatures make application, and of course the Congress itself would have no option in the matter, according to my view, and the President could neither give effect to nor destroy the vital force of that.

I merely submit that to the Senator from Georgia, as, of course, we are all trying to arrive at what is just and proper about it, and none of us could be more anxious to do that than the Senator from Georgia. I think, upon consideration, he will find that there is a full explanation for the difference there; but I may be wrong about that, for I have not examined it to my satisfaction, and whenever the Senator from Georgia indicates that he wants further time, if he does want further time, to examine that matter, as it is my privilege to do, having voted in the affirmative, I will enter the motion to reconsider.

Mr. BACON. Mr. President, the Senator anticipated what I was intending to do and was very nearly on the point of doing—suggesting that that motion should be made by some Senator. I had in mind at the time the Senator from Missouri [Mr. REED], who suggested the point.

Mr. BAILEY. So much the better, because the Senator from Missouri raised the question.

Mr. BACON. I want to say to my learned friend that he does not quote with his usual accuracy the words of the Constitution in regard to the presentation of resolutions to the President. The Senator said that they should be presented before they became law. That is not the language of the Constitution.

Mr. BAILEY. Mr. President——

Mr. BACON. Will the Senator from Texas pardon me, and let me make my presentation before he replies? I just want to read him the section as I find it. The provision is not the one which he is reading, but is found on the bottom of page 189, and is in this language:

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States;—

There is a semicolon—that command is complete in itself. It shall be presented to him; and then it resumes—

and before the same shall take effect shall be approved by him, etc.

But the mandate is absolute, not simply that it shall be presented before it can become a law, but the mandate is absolute that—

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary * * * shall be presented to the President of the United States.

I do not want to argue this question now, for this reason: I have had some little experience as a lawyer, and I know that when a lawyer argues on one side it is very hard afterwards to get him to look at it the other way, and I am very anxious that my distinguished friend the Senator from Texas [Mr. BAILEY], than whom there is no better lawyer in the Senate, shall not be too strongly fixed in his opinion, because I think it is a matter of grave importance that we should all endeavor to investigate with great care.

Mr. President, I have not made any point of order in the matter. I think this is a matter for the determination of the Senate. I only took advantage of the opportunity in the reading of the Journal to bring it to the attention of the Senate. I think that the course suggested by my friend the Senator from Texas is the proper one, that there should be entered a motion to reconsider, not for present consideration, but for the purpose of giving, not to myself alone but to all Senators, an opportunity to examine carefully this most vital and important question. Therefore, I hope that after——

Mr. STONE. Mr. President——

Mr. BACON. I hope the Senator from Missouri will pardon me for just a moment.

Mr. STONE. Mr. President——

Mr. BACON. Just one moment and I will finish.

So far as the Journal is concerned, the Journal does narrate what exactly occurred, and that is the only question we have to deal with so far as the Journal is concerned. Therefore I shall not oppose its approval, but after the approval of the Journal I think the motion should be made.

Now I yield to the Senator from Missouri.

Mr. STONE. I merely desire to suggest to the Senator from Georgia one thought I have in mind, which seems to me to be very important, to the end that he may give his attention to it in the further examination of this question. That is this: The vote cast by the Vice President was to determine a tie vote on a resolution offered by the Senator from Kansas by way of amendment or substitute for the joint resolution coming from the Judiciary Committee, which was the original proposition pending before the Senate. That vote was not in the Senate proper, but in the Committee of the Whole. After that vote had been cast by the Vice President, even conceding that it was improperly cast, the measure was reported from the Committee of the Whole, and the Senate, by a two-thirds vote, determined to submit the proposition in the form in which it stood when reported from the Committee of the Whole to the Senate. The question I ask is whether the final action of the Senate does not determine the question?

Mr. BACON. That may be true, and I do not purpose, of course, at this time to go into the question as to what is the legal effect of what has been done. But I do think it is a question which should be settled upon very mature consideration, based upon careful study and examination; and it is with that view that I have called it to the attention of the Senate. I know of no way in which it can be reached other than that suggested by the Senator from Texas [Mr. BAILEY], and that is that there should be entered a motion to reconsider, to lie upon the table until such time as Senators shall have had the opportunity to make an investigation which shall be satisfactory to them.

Of course, the Vice President need not have my assurance that in raising the point it has been without the slightest personal feature, and it would be furthest from my possible thought to in any manner reflect upon the act of the Vice President. Doubtless he did so with the utmost conviction of his right to do so, and that is not in any manner challenged.

But I think that is the proper course, and I will suggest to my friend the Senator from Texas [Mr. BAILEY], or the Senator from Missouri [Mr. REED], one or the other, both of whom voted for the joint resolution as it passed, to enter the motion in order that Senators may have time for an investigation.

I want to say just one single further word, and that is this: In most of the cases which have been read here as precedents it will be found that the questions were political and that Senators voted one way or the other, according to their political alliances. This does not happen to be a political question; it is not one in which there is a party alignment; and I hope that the opportunity is offered for a calm, dispassionate, and impartial discussion of the question.

Mr. CLAPP. Mr. President, I desire to call the attention of the Senator from Georgia to a matter that I know the Senator from Texas suggested, although he did not seem disposed at that time to press it. I do not know whether to this extent it was even in contemplation.

The argument which the Senator from Georgia makes is that dealing with a matter upon which it is not necessary for the President to act—takes it out of the rule authorizing the Vice President to vote. The provision for amendment to the Constitution provides two ways. One leaves it in the discretion of the Congress, and if it stopped there, there might be force in the position taken by the Senator from Georgia. But the other provision for amending the Constitution imposes an absolute imperative duty upon Congress. When two-thirds of the States ask it, then Congress shall provide for a constitutional convention.

Where a duty is absolutely imposed as an imperative duty, and there is a provision in the Constitution which may be invoked by which a tie can be prevented, and it is made possible for the Congress to perform that duty which is required of Congress, it seems to me there can be no escape from the conclusion that it was not only put there, but must be invoked, and there being the absolute necessity, possibly, of invoking it to prevent a tie and prevent the failure of Congress to carry out a prescribed duty, it seems to me there is no escape from the conclusion that in matters of this kind the Vice President must act.

Mr. BACON. Mr. President, I will suggest this to the Senator from Minnesota: Even in the case, as stated by him, of the compliance with an absolute mandate of the Constitution, it would still have to be put in the form of a statute or of a resolution.

Mr. CLAPP. Oh, certainly. But can the Senator from Georgia imagine a mandate without a provision by which that mandate may be executed?

Now, if it is possible for the Senate to tie upon a mandate, then the mandate would be of no force at all. There must be some provision against defeating the mandate, and that provision must vest somewhere the power to cast a vote in the case of a tie upon the execution of the mandate.

Mr. BACON. There is no trouble about that at all, if I understand the point made by the Senator from Minnesota. I did not catch it at first.

There is no impediment to the proceeding of the Senate caused by a vote being a tie. There is a well-recognized parliamentary law that when a proposition is submitted and there is a tie the affirmative fails and the negative prevails. There would not be a cessation of business because of the fact that there was no provision for the presiding officer to vote.

Mr. CLAPP. That is true. But inasmuch as the execution of the mandate requires the affirmative action, the affirmative action would fail, the execution of the mandate would fail, if the Senate came to a tie and there was no way to break that tie.

Mr. BACON. The Senator is proceeding upon the assumption, then, that with an absolute mandate to call a convention under certain circumstances, and with those circumstances arising, there would be half of the Senate which would disobey the mandate, and therefore there must be somebody to put it into execution. That is the Senator's proposition, as I understand it.

Mr. GALLINGER. Mr. President, I hesitate to call attention to a certain other matter in connection with this vote.

The Senator from Maine [Mr. FRYE], who is absent, had a general pair with the Senator from Georgia [Mr. BACON]. The Senator from Vermont [Mr. DILLINGHAM] was paired with the Senator from South Carolina [Mr. TILLMAN]. But upon that particular vote Senators DILLINGHAM, FRYE, and TILLMAN did not vote, while the Senator from Georgia [Mr. BACON] did vote. Had the pair of the Senator from Maine [Mr. FRYE] been observed, this controversy would not have arisen.

Mr. BACON. The Senator has read a part of the RECORD and has not read it all. I stated the fact last night when I voted that I did have a pair with the Senator from Maine [Mr. FRYE], and that I voted, without observing the pair, by the authority of the Senator from Maine, which I have in writing.

Mr. GALLINGER. Then, I apologize to the Senator.

Mr. BACON. Very well.

Mr. GALLINGER. I simply knew that the Senator from Maine——

Mr. BACON. The Senator from New Hampshire will find that statement in the RECORD.

Mr. GALLINGER. I will look it up. We know the Senator from Maine very ardently supported the amendment of the Senator from Utah [Mr. SUTHERLAND] last year, and before he left here he said to me he had a general pair with the Senator from Georgia. That is all I know about it.

Mr. BACON. I myself voluntarily wrote to the Senator from Maine to inquire of him how I should pair him on that vote and other votes which were named by me. He replied to me that as to that vote he had no particular interest, and that I might pair him or not, as I pleased, and I now have his letter to that effect.

Later in the evening the Senator from Vermont [Mr. DILLINGHAM] applied to me to transfer the pair, which I did, I myself making the announcement.

When the Senator from Vermont first applied to me on the subject, I doubted, on account of the way in which the Senator from Maine wrote in his letter, whether I should do so or not, but upon reflection I concluded that I should do so; and I went to the seat of the Senator from Vermont and had him make the arrangement by which the pair was transferred in his case and in mine to Messrs. FRYE and TILLMAN, respectively, so that we each voted.

Mr. GALLINGER. I have apologized to the Senator from Georgia. It struck me as being rather peculiar, however, that the Senator did pair the Senator from Maine on the final vote.

Mr. BACON. It is usual, before criticizing with respect to a question of pairs, to ascertain what announcement was made in regard thereto; and the announcement was made by me in the Senate last night that I had voted by the authority of the Senator from Maine.

Mr. GALLINGER. And yet the Senator paired the Senator from Maine on the final vote.

Mr. BACON. I did so at the request of the Senator from Vermont [Mr. DILLINGHAM], transferring the pair so that he could be allowed to vote and not be prevented from voting on account of the absence of the Senator from South Carolina [Mr. TILLMAN].

The VICE PRESIDENT. The question is on the approval of the Journal. Without objection the Journal will stand approved. The Journal is approved.

Mr. BACON. On a question of personal privilege, I want to refer the Senator from New Hampshire to page 1924 of the RECORD, where he will find this announcement made by me. After having announced the pair with reference to the Senator from South Carolina [Mr. TILLMAN] I said:

> I also desire to state while I am on the floor that I voted on the Bristow amendment, although paired with the Senator from Maine [Mr. FRYE], because I had his authority so to do.

The Senator from New Hampshire will find that in the RECORD.

Mr. GALLINGER. Yes, I do find it; and yet immediately preceding the Senator from Georgia announced that the Senator from Maine would vote in the affirmative if present. The Senator from Georgia will notice that in his remarks likewise.

Mr. BACON. I so understood.

PUBLIC BUILDINGS IN CITY OF WASHINGTON.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, advising that in the statement transmitted in a letter dated June 9 showing the amount paid for the various parcels of land comprising the site for the proposed buildings for the Departments of State, etc., through a typographical error the date of payment for parcel No. 43, square 228, was given as April 15, 1910, whereas the correct date is April 15, 1911.

Mr. HEYBURN. I ask, inasmuch as it is a part of the document ordered printed yesterday, that the document (S. Doc. No. 46) be reprinted, so as to include this communication, and lie upon the table. Otherwise we would have two documents to deal with.

The VICE PRESIDENT. Without objection, that order will be made.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a memorial of the Secular League of Washington, D. C., remonstrating against the enforced observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. NELSON. On behalf of 35,000 farmers of Minnesota I present the following petitions remonstrating against the enactment of the so-called Canadian reciprocity bill.

I want to say, Mr. President, that neither the Lumber Trust nor the Paper Trust has had anything to do with securing these petitions. I ask that the body of one of the petitions be printed in the RECORD.

The VICE PRESIDENT. Without objection, that order will be made.

The petition is as follows:

PETITION AGAINST CANADIAN RECIPROCITY ON FARM PRODUCTS, WITH PROTECTION ON WHAT FARMERS HAVE TO BUY.

HONORABLE CONGRESS OF THE UNITED STATES,
Washington, D. C.

GENTLEMEN: We, the undersigned, farmers of the Northwest, respectfully protest against the adoption of the so-called Canadian reciprocity bill, which has been negotiated by President Taft and recommended to Congress. We urge that said bill should not become a law for the following reasons:

First. The schedule proposed provides for free trade on all that the northwestern farmers produce while retaining almost full protection as heretofore on all that farmers have to buy. Practically all the concessions that have been made to Canada are made at the direct expense of American farmers.

Second. The schedule gives Canadian competition free trade in the American markets for grain, but still protects flour; free trade for live stock, but still protects the packers in their meat; free trade on all the farmers' crops, but still protects the Canadian manufacturers against American competition in Canada. (See Schedule B.)

Third. We protest that the immediate effect of the adoption of such a reciprocity schedule would be to encourage American farmers to move into Canada, where the virgin soil will produce greater crops of grain with less labor than can be produced on our own farms in the Northwest. The result will be to decrease land values in the United States

and to enhance land values in Canada at the expense of United States investments. It will result in many localities in creating abandoned farms in Northwestern States, and will retard the development of Wisconsin, Minnesota, North and South Dakota, Montana, and Idaho, causing a loss in land values in these States amounting to millions of dollars.

Fourth. More than half the tillable land in all of these States yet remains uncultivated, and we declare to the American Congress that so long as the policy of protective tariff continues to be the policy of this country the agricultural interests have just as much right to protection of home industry and home investments against unequal foreign competition as have the manufacturers or any other interests.

The farmers have been the last to feel any direct benefit from protective tariffs. Why should the protective party expect the farmers to be the first to suffer the loss of that protective tariff policy?

We, the undersigned farmers, therefore earnestly appeal to our Senators and Representatives in Congress to defend the agricultural interests of the Northwest against this unfair and misnamed species of reciprocity at least until the same principle of free trade can be applied to what the American farmers have to buy that is now proposed on what American farmers have to sell.

Mr. NELSON presented a memorial of the congregation of the Seventh-day Adventist Church of Pine Island, Minn., and a memorial of the congregation of the Seventh-day Adventist Church of Wells, Minn., remonstrating against the enforced observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. CULLOM presented petitions of the International Sunshine Society of the Manufacturers' Association of New York; of the Chamber of Commerce of Watertown, N. Y.; of the Chamber of Commerce of Philadelphia, Pa.; of the Real Estate Exchange of Omaha, Nebr.; of the Commercial Club of St. Joseph, Mo.; and of the Maryland Woman's Christian Temperance Union, praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

Mr. BRIGGS presented memorials of Swedesboro, Riverside, Hopewell, Pequest, Manalapan, Locktown, Fairlawn, Shrewsbury, and Cape May Granges, of the Patrons of Husbandry; of the Blast Furnace Workers and Smelters of Newark; of the Board of Agriculture of Gloucester County; and of sundry citizens, all in the State of New Jersey, remonstrating against the proposed reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a memorial of the National Brotherhood of Operative Potters of Trenton, N. J., remonstrating against the alleged abduction of John J. McNamara from Indianapolis, Ind., which was referred to the Committee on the Judiciary.

He also presented a petition of the congregation of the First Presbyterian Church of Rahway, N. J., and a petition of Washington Camp, No. 153, Patriotic Order Sons of America, of Point Pleasant, N. J., praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented memorials of the congregations of the Seventh-day Adventists churches of Bridgeton, Atlantic City, Vineland, and Salem, in the State of New Jersey, remonstrating against the enforced observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented a petition of sundry citizens of Newark, N. J., praying for the proposed reciprocal trade agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented a memorial of Haddon Grange, Patrons of Husbandry, of Haddonfield, N. J., remonstrating against the passage of the so-called cold-storage bill, which was referred to the Committee on Manufactures.

He also presented a petition of the Religious Society of Friends of Bernardsville, N. J., and a petition of the First Congregational Society of Bernardsville, N. J., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

He also presented memorials of the Philip Sheridan Club and Arion Singing Society of Passaic, the State Board and the Dover Division of the Ancient Order of Hibernians, and of sundry citizens of Bergenfield and Jersey City, and of the Aurora Singing Society of New Brunswick, all in the State of New Jersey, remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

Mr. BRANDEGEE presented a memorial of the Business Men's Association of Norwich, Conn., remonstrating against the establishment of a parcels post, which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of Local Division No. 1, Ancient Order of Hibernians, of Jewett City, Conn., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. WATSON presented a memorial of the Mountain City Drug Co., of Elkins, W. Va., remonstrating against the imposition of a stamp tax on proprietary medicines, which was referred to the Committee on Finance.

Mr. TOWNSEND presented a petition of sundry citizens of Leslie, Mich., praying for a reduction of the duty on raw and refined sugar, which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens of Jackson, Mich., remonstrating against the passage of the so-called Johnston Sunday rest bill, which was ordered to lie on the table.

He also presented memorials of Island Grange, No. 137; Manton Grange, No. 949; Sebewa Grange, No. 163; Grand Traverse Grange; Rock Grange; Rural Grange, No. 37; Newberg Center Grange, No. 695; Pittsford Grange, No. 133; Saginaw Grange, No. 220; Mayfield Grange; Clyde Grange; Aetna Grange, No. 810; Fisher Grange; Barron Lake Grange; Farmers' Friend Grange; Campbell Grange, No. 870; Pleasant View Grange; Scio Grange; and Cass County Grange, of the Patrons of Husbandry, and of sundry citizens of Waterford, all in the State of Michigan, remonstrating against the proposed reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. WARREN presented a resolution adopted by the Laramie County Cattle and Horse Growers' Association, of Wyoming, June 5, 1911, praying for the enactment of legislation providing for a reasonable disposition of the grazing lands of the West, which was referred to the Committee on Public Lands.

He also presented the petition of J. C. Underwood, of Underwood, Wyo., secretary of the Laramie County Cattle and Horse Growers' Association, of Wyoming, transmitting a copy of resolutions adopted by that association June 5, 1911, praying for the enactment of legislation granting a fair and equitable protection of live stock and the products of live stock, and remonstrating against the proposed reciprocal trade agreement between the United States and Canada, which was referred to the Committee on Finance.

Mr. LORIMER presented memorials of Radner Grange, No. 1588, Patrons of Husbandry, of Edwards; of Valley Union, No. 249, Farmers' Educational and Cooperative Union of America, of Villa Ridge; and of sundry citizens of Peoria, all in the State of Illinois, remonstrating against the proposed reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. LODGE presented memorials of sundry citizens of Thayer, Melrose, and Worcester, all in the State of Massachusetts, remonstrating against the passage of the so-called Johnston Sunday-rest bill, which were ordered to lie on the table.

Mr. BOURNE presented memorials of sundry citizens of Lane, Oreg., remonstrating against the passage of the so-called Johnston Sunday rest bill, which were ordered to lie on the table.

Mr. PERKINS presented memorials of sundry citizens of Ukiah, Watsonville, Calistoga, and St. Helena, in the State of California, remonstrating against the passage of the so-called Johnston Sunday rest bill, which were ordered to lie on the table.

He also presented a memorial of Local Grange No. 85, Patrons of Husbandry, of Danville, Cal., remonstrating against the proposed reciprocal trade agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented a petition of the State Council, Junior Order United American Mechanics of California, praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. CLAPP presented memorials of the congregations of the Seventh-day Adventist Churches of Anoka, Minneapolis, Pine Island, Mankato, Austin, Stillwater, Moose Lake, Sherburn, Detroit, Litchfield, Staples, St. Paul, New Auburn, Hewitt, Morgan, and Duluth, all in the State of Minnesota, remonstrating against the enforced observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

He also presented memorials of the Ancient Order of Hibernians of Winona County, Nicollet County, Dakota County, St. Paul, Madison Lake, Scott County, St. Louis County, and Duluth, all in the State of Minnesota, remonstrating against the ratification of the proposed treaty of arbitration beween the United States and Great Britain, which were referred to the Committee on Foreign Relations.

Mr. SHIVELY presented memorials of the congregations of the Seventh-day Adventist Churches of Peru, Logansport, and Pleasant View, all in the State of Indiana, remonstrating against the enforced observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

RECIPROCITY WITH CANADA.

Mr. PENROSE. Mr. President, I report back from the Committee on Finance the bill (H. R. 4412) to promote reciprocal trade relations with the Dominion of Canada, and for other purposes, with an amendment, and without recommendation. (S. Rept. 63.)

The VICE PRESIDENT. The bill will be placed on the calendar.

Mr. OVERMAN. I should like to ask the Senator from Pennsylvania, the chairman of the Committee on Finance, whether or not we are to have a report from his committee on what is known as the farmers' free-list bill during this session of Congress?

Mr. PENROSE. For the information of the Senator I can tell him that the committee expects to take that matter up within a reasonable time and give it careful consideration. The hearings on the reciprocity measure occupied nearly a month of patient and faithful work, and that bill having been reported to the Senate, of course the Finance Committee will perform its duty in taking up the free-list measure.

Mr. OVERMAN. I noticed in one of the newspapers a statement to the effect that there is to be no report at this session. Therefore I wished to inquire of the Senator whether he could assure us that there would be a report on that measure at this extra session.

Mr. PENROSE. I can not give the Senator any assurance as to when the report will be made on the free-list measure. It is a very sweeping one. The committee is in receipt of a large number of applications from people all over the country desiring hearings. I assume the same privilege will be extended to them that was extended to the people interested for or against the reciprocity measure.

Mr. BAILEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Texas?

Mr. PENROSE. Yes.

Mr. BAILEY. The information which the Senator from Pennsylvania has furnished in response to the question of the Senator from North Carolina is not very illuminating, and I want to supplement it by saying to the Senator from North Carolina that in my judgment that committee has no idea of reporting the free-list bill. But I also want to say that if it does not report it, I shall ask the Senate to act upon a motion to discharge that committee, after a reasonable time, so that the matter may be brought before us for consideration.

Mr. PENROSE. I would be very sorry to have the impression go forth that the committee does not intend to deal with the bill fairly and treat it with every consideration.

Mr. BAILEY. I have not suggested that the committee would not deal with the bill fairly, according to their judgment.

Mr. PENROSE. If the Senator means to imply that the bill may be adversely reported, that is another question, but that the committee will never report it is not founded upon anything that has developed up to date.

Mr. BAILEY. Nothing has developed up to date to encourage us to believe that the bill will be reported, even without recommendation.

Mr. PENROSE. I hope the Senator from Texas will not abandon all hope.

Mr. BAILEY. I will not abandon all hope.

Mr. BROWN. I should like to make an inquiry of the Senator from Pennsylvania. I understood the Senator from Pennsylvania, the chairman of the committee, to say that the bill was reported without a recommendation.

Mr. PENROSE. Yes.

Mr. BROWN. Without a recommendation either way, but with an amendment which the committee offers to the bill, which it neither favors nor rejects.

Mr. PENROSE. The bill was amended by the committee and then reported without recommendation.

Mr. BROWN. Is there any recommendation in favor of the amendment which you have reported?

Mr. PENROSE. I suppose the members of the committee who voted for the amendment, being in the majority, would recommend the amendment if the bill should pass.

Mr. BROWN. But, as a matter of fact, do they recommend the amendment which they brought in?

Mr. PENROSE. It was somewhat like the experience yesterday. I assume several gentlemen voted for the amendment intending to vote against the bill. That is not an unusual experience.

Mr. BROWN. Both the bill and the amendment which the committee offers are laid before the Senate without recommendation either for or against?

Mr. PENROSE. There is no formal recommendation of the amendment or the bill.

Mr. DIXON. I wish to ask the Senator from Pennsylvania whether it is the intention of the Republican members of the Finance Committee to make any report on the reciprocity bill.

Mr. PENROSE. There is no majority report of the committee. Every member of the committee seems to be searching his own conscience, and within the minority, the chairman is informed, several representing the committee will file minority reports.

Mr. DIXON. Will the majority of the committee make any report?

Mr. PENROSE. There is no majority of the committee.

Mr. DIXON. Is there a majority of the committee against the bill? Is that what we are to understand?

Mr. PENROSE. It is not disclosing any secrets, because the matter has in some way gotten into the newspapers, that there was a tie vote to report the bill favorably and a tie vote on the question of reporting it adversely. The Senator can draw his own conclusion.

Mr. DIXON. What I want to know is, why, after six weeks of hearings, the great Finance Committee of the Senate in reporting the bill back, which probably revolutionizes the protective tariff of this country, that committee did not either file a favorable or an unfavorable report. I believe it is hardly a square deal to the Senate for this committee, after six weeks were spent in conducting these hearings, amounting to several thousand pages, to report a bill that is of such tremendous importance without giving us a synopsis of what the hearings amounted to and, at least, giving us some kind of an opinion as to whether the bill ought or ought not to become a law. If it was an ordinary measure, such as are introduced here by the thousands, possibly the fact that no committee report accompanied the bill would occasion no comment; but on a bill of this kind certainly some members of the Committee on Finance—the Republican end of it, at least—ought to make some kind of a report to the Senate; and I am surprised——

Mr. McCUMBER. Mr. President——

Mr. PENROSE. It is simply a question of fact. The committee was unable to agree, and the testimony, of course, will be very valuable to each Senator in making up his own mind on this question. A copy of the testimony has been sent to each Senator, and I hope Senators will read it carefully.

Mr. BAILEY. If the Senator from Pennsylvania will permit me, I want to correct a statement. As we have gone into the committee room we might as well put the exact facts into the RECORD. On the motion to report this bill favorably the vote was 8 to 6.

Mr. McCUMBER and Mr. LODGE. Against it.

Mr. BAILEY. Against it. On the motion to report it adversely the vote was 7 to 7. I voted against reporting it favorably because I do not think it ought to pass, and I voted in favor of reporting it adversely for the same reason; but I felt that the Senate was entitled to an opportunity to judge of that matter for itself. As I could not report it with the recommendation it should not pass, and as I would not report it with the recommendation that it should pass, I agreed that it should be brought back here without recommendation.

I think the Senator from Montana would not be willing to say that the Finance Committee of the Senate should deprive the Senate of an opportunity to consider this matter.

Mr. DIXON. No; but——

Mr. BAILEY. I hope to use my own action in this matter to get the free-list bill out of the committee.

Mr. DIXON. I want to say to the Senator from Texas the greatest committee of the Senate in power certainly, at least, should have the moral courage to express their opinion to the body of the Senate as to whether the bill ought or ought not to pass, and to give their reasons therefor.

Mr. BAILEY. Where can the question of moral courage arise? Suppose there are 7 and 7. Each Senator must have the moral courage to sustain his own opinion, and yet we must recognize that we are merely an organ of the Senate, and that after we have taken this voluminous testimony, and not only voluminous but valuable, we bring it back to the Senate.

Mr. DIXON. Without a word of comment.

Mr. BAILEY. We bring the bill back to the Senate, and we say to the Senate, We are unable to recommend to you action, either one way or the other, but we report it back to you for such action as you think proper to take.

Mr. DIXON. Without any comment whatever.

Mr. BAILEY. Some Members will submit comments.

Mr. DIXON. Does that mean that nobody on the committee is for the passage of the bill, or advances any reason for its passage?

Mr. BAILEY. I do not think that many are very zealous about it.

Mr. WILLIAMS rose.

Mr. BAILEY. The Senator from Mississippi will note that I said not many are very zealous.

Mr. DIXON. I should like to know how many members of the Finance Committee are really for the passage of the bill.

Mr. BAILEY. Let the Senator interview his side.

Mr. DIXON. I have tried, but I got no results.

Mr. BAILEY. I will report for our side. Most of our side will report for themselves. I will agree with the Senator from Montana this far, that the bill ought to have been brought back with a recommendation. Without intending to criticize any Member of the Senate or any member of the committee, the Senator who would not vote to report it favorably, it seems to me, ought to have voted to report it adversely.

Mr. DIXON. Certainly there ought to have been some report.

Mr. BAILEY. Because it ought to pass or it ought not to pass; but a Senator decides that for himself.

The only suggestion I rose to make is that it is not a fair criticism against the committee that it brings back the bill for the action of the Senate; for if we had not brought it back any Senator could have moved to discharge us from its further consideration, and I would have voted for that motion myself.

Mr. LODGE. If the Senator will allow me, that would have resulted in precisely the same thing.

Mr. BAILEY. Precisely; for then, as now, it would have been without a recommendation.

Mr. LODGE. We could not get a majority to report the bill favorably. The vote to report it adversely was a tie, by which the motion to substitute adversely for favorably was lost. The only thing that remained was either that the bill should linger in the committee or that it should be brought here by a motion to discharge the committee, or by our own voluntary action in reporting it without recommendation. There was no other way to get it before the Senate.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from North Dakota [Mr. McCUMBER] has been recognized.

Mr. McCUMBER. I will not yield any further just now.

The VICE PRESIDENT. The Senator from North Dakota has the floor.

Mr. McCUMBER. Mr. President, this bill was submitted to the Finance Committee, of which I am a member, some six weeks ago. It was submitted for the purpose of taking testimony and reporting back the result of the investigation in some concrete form that would evidence the conclusion of the Finance Committee upon this measure. The majority of the Finance Committee have failed to give their conclusion. So far the mind of the majority, so far as the Senate is concerned, seems to be a blank.

Now, Mr. President, there are two of the members of that committee who have very strong convictions upon the question as to whether or not this bill should pass. I desire to state that inasmuch as the chairman of the committee reports it back to the Senate without any recommendation I shall feel called upon, and I give notice, that to-morrow, immediately after the morning business, I shall ask the Senate to be allowed to present some reasons and some conclusions which I derived from the testimony showing why the bill should not pass. That the Senate may have something and some reasons before it, before we go into the discussion of the subject, I dictated my own minority views. They are in a very few words. I will ask that they be read and inserted in the RECORD.

Mr. BAILEY. I hope the Senator will not describe them as minority views, but just as his own views, because there is really no minority.

Mr. McCUMBER. It is the minority so far as reporting the bill without recommendation is concerned. I voted with those in the minority to report it with a recommendation that it should not pass. I will ask that my views may be read.

The VICE PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

VIEWS OF MR. M'CUMBER.

(S. Rept. 63, pt. 2.)

After nearly two months of investigation of the above-mentioned bill, the undersigned believes that it is the duty of the Committee on Finance to report to the Senate its conclusions thereon.

If this bill is just and right, the committee ought to say so. If it is unjust and wrong, the committee should so report.

The evidence submitted to the committee conclusively shows that the enactment of this bill into law would be a great injustice to the agricultural interests of all the Northern States, for the following reasons:

(1) The occupation of farming to-day pays less profit upon the capital and labor actually employed therein than any other important occupation in the United States.

(2) Therefore any legislation the effect of which would be to make this occupation less profitable is both wrong and inexpedient.

(3) On the contrary, so far as it can be accomplished by legislative enactment, the business of farming should be made more remunerative and inviting.

(4) For the past few years this occupation in the Northern States has shown an increasing profitableness as our production and consumption of food products more nearly approached each other.

(5) But we no sooner enter upon these new and better conditions, when we are securing for farm labor and for capital invested in farms and farm property a more fair and just remuneration, than we find ourselves confronted by this measure, which will operate as a check against any further progress and will even deprive us of the advantage we have gained in the last few years by the upbuilding and extension of our home markets.

(6) For many years the population of the rural districts has been drifting into the cities because of the more remunerative occupations in the cities. The late increasing prosperity on the farms had checked this flow of population from the farm to the cities, land values had advanced, farms long since deserted were being rehabilitated, and an era of general prosperity seemed to be awaiting the farming population.

(7) By destroying, as this measure certainly does destroy, every hope of the farmer of the benefits of an increasing home demand and his ability to finally secure just compensation for his labor, we will again check our agricultural development and send hundreds of thousands of the sons and daughters of farmers to crowd the cities.

(8) For a number of years the northwestern farmers have received for their cereal products a price considerably in excess of what such products would bring for export purposes. The great markets of Minneapolis and Duluth have for several years ceased to be exporting markets for the principal kind of wheat raised in the States tributary to those markets.

(9) It is claimed by some of the supporters of this measure that, as we still export grain from some parts of the United States, our prices are governed and fixed by the foreign prices. This is not true to-day and has not been true for a number of years. The cost of transporting grain from Minneapolis to Liverpool, including insurance, commission, handling, etc., is about 15 cents per bushel. Allowing reasonable profit on capital and risk of business, we can export from Minneapolis to Liverpool only when the Liverpool prices are from 16 to 17 cents above Minneapolis prices.

The following are the average prices paid for No. 1 northern wheat in Minneapolis and Liverpool for the years 1908, 1909, and 1910, as reported by the Bureau of Statistics, Agricultural Department:

Years.	Minneapolis.	Liverpool.	Difference.
1908	$1.11	$1.25	$0.14
1909	1.20	1.29	.09
1910	1.14	1.14	0

If, therefore, we had been dependent upon Liverpool prices for our wheat, we would have received 3 cents per bushel less for it in 1908, 8 cents per bushel less in 1909, and 17 cents per bushel less in 1910. Computing these losses on the wheat crop of Minnesota and the two Dakotas for these three years, we have—

Years.	Total crop.	Loss per bushel.	Total loss.
	Bushels.	*Cents.*	
1908	174,847,000	3	$5,245,410
1909	232,430,000	8	18,594,400
1910	177,905,000	17	30,243,850
Total loss of 3 States for 3 years			54,083,660

(10) What is true of wheat is also true of flax and barley, and in most years is also true of oats. During the year 1910 the price of barley on the American side of the border line averaged about 30 cents a bushel above that on the Canadian side. During the same period the price of flax averaged about 25 cents a bushel higher on the American side than on the Canadian side. It is equally certain that our dairy products and hay will suffer diminution in price by reason of Canadian competition.

(11) The prices of our grains in the Minneapolis and Duluth markets, of the kind required for milling in this country, have risen above an export basis because of the great demand for such grain in this country. This same character of grain is raised at the present time in enormous quantites in the Provinces of Manitoba, Saskatchewan, and Alberta. These prices on the American side during the past few years have averaged about 10 cents per bushel on wheat higher than on the Canadian side. The prices for grain on the Canadian side are the Liverpool prices less cost of transportation, commissions, insurance, etc. It follows that the moment the tariff wall between this country and Canada is demolished the Canadian product will flow into this country until the prices of both are on a level with a general level of the world's prices.

(12) We are thus not only forced to surrender the advantage which we have been receiving, an advantage which accrued to us only when our home demand became about equal to our home supply, but we will be doomed to remain in that condition indefinitely.

(13) The evidence clearly establishes that in the three Provinces mentioned there could be raised sufficient wheat to meet the world's demand. The three Provinces of the Canadian northwest—Manitoba, Saskatchewan, and Alberta—are destined in a very few years to become the granary of the world. They have a combined tillable acreage, according to Government reports, capable of raising wheat, barley, flax, oats, and rye, of 213,826,240 acres. The average production of wheat in those Provinces is about 20 bushels per acre. The world's production of wheat is now about 3,000,000,000 bushels. Thus the enormous probabilities of this section at once become apparent.

It is not contended that all of this vast Canadian territory will in the near future be sown to wheat or other cereals. To do that would so oversupply the world's needs that the product would be scarcely worth the expense of hauling to market. What is contended is that the land with its virgin soil is there. Its possibility of production is there—right at our door. It must for many years produce an enormous surplus, which must seek its nearest profitable market. This surplus would flow into our markets whenever their demand might raise the price of our products above an export basis and immediately drive

these prices down to such an export basis. And therefore, though not a single bushel should be imported into this country, the fact that it is there, ready for importation whenever our prices would warrant, will keep these prices down to an export basis.

With these great possibilities, and with soil and climatic conditions which make that section peculiarly adapted to the raising of those cereals which come in competition with the products of the border States, it is certain that those cereals will be raised in that section so long as there is a world demand for them at prices that will allow even a meager profit in their production. And it is equally certain that under such conditions the prices on the American side, with free trade in such cereals, must always be on the level with the prices on the Canadian side, modified by only slight advantages on either side in certain localities by differences in transportation rates.

(14) Thus it will be seen that the farming public, which has supported the protective policy of this Government for over 40 years, has purchased all of its comforts and necessities on a high protective basis, and has, until within the past few years, been compelled to sell its products on a free-trade basis in competition with the entire world, will by this act be forced to yield the advantages it has earned in building up a home market at its own expense; will again be forced to compete not only with the markets of the whole world, but against what is destined to be the greatest wheat-raising section in the whole world, at its very doors, while at the same time it must still purchase on a protected market.

(15) Our farming population has for years patiently paid their assessments of tariff duties, which gave them only an indirect and somewhat uncertain benefit, with a hope and promise that with our growing population our home consumption would soon equal our production of food products and that they should then reap the full benefits of protection in an enhanced value of all their products; that their earning for their labor and capital employed would be placed on a plane of equality with like earning of labor and capital employed in the city; that they could then surround themselves with the comforts, conveniences, and opportunities of the city life. But just as this hope and promise were about to be realized and this assured and permanent prosperity is almost within their grasp the hope is dashed to the earth and the promise is broken by allowing their only great competitor free access to those home markets developed and purchased by their sacrifices.

(16) The great majority of the farms along the border States, and especially of those west of the Mississippi, have been sold and resold at prices which could only be justified on the assumption that the benefits we were receiving from a protected home market would continue. Heavy mortgages have been given for deferred payments, and to now destroy this expectation and depress and diminish the price of the products of the farm is an injustice against every purchaser of such land.

(17) This measure is subversive of the whole idea of protection, and if enacted into law will inevitably lead to the overthrow of that policy.

P. J. MCCUMBER.

Mr. WILLIAMS and Mr. HEYBURN addressed the Chair.

The VICE PRESIDENT. The Senator from Mississippi, the Chair understands, desires to submit some matter from the committee in connection with the report.

Mr. WILLIAMS. Mr. President, I shall not bore the Senate by having it read, but I wish to submit the views of the senior Senator from Missouri [Mr. STONE], the junior Senator from Indiana [Mr. KERN], and my own, favorable to the passage of Canadian reciprocity legislation. I ask that it be printed in the RECORD and as a document.

The VICE PRESIDENT. In connection with the other report. Without objection, that order will be entered.

The matter referred to is as follows:

VIEWS OF MESSRS. WILLIAMS, STONE, AND KERN.

(S. Rept. 63, pt. 2.)

Mr. WILLIAMS, for himself, Mr. STONE, and Mr. KERN, submitted the following views:

That some sort of reciprocal trade arrangement between us and our nearest neighbor, Canada, is better than none at all goes without saying; that the particular trade arrangement agreed upon is a good one is made evident by the fact that most of those who are trying to defeat it are trying to do it not directly, but indirectly by amendment.

I do not believe that I can better express the objections to the Root amendment, which has been grafted upon the bill by the committee, than by quoting a part of a speech made by the President of the United States at Orchestra Hall, Chicago, Ill., on June 3, 1911:

"Second, as to print paper. The Tariff Board has made a most exhaustive examination of the comparative cost of production of print paper in the United States and in Canada. Indeed, the report is so complete as to vindicate the judgment of those who proposed the use of a board for the purpose of determining the difference in the cost of articles at home and abroad with a view to assisting the Congress in a rational readjustment of the tariffs. This report shows that the mills best situated in the United States, with the best machinery, can manufacture print paper at a slightly less cost than the mills best situated in Canada; that the Canadian mills, on an average, have newer machinery than the American mills; that there are quite a number of American mills that use old machinery, and therefore do not conduct their business on economical lines; that the average cost of production in all the mills of the United States, including the poorest mills, is about $5 more a ton than the cost of production in Canada, with its newer mills, and that this $5 is just about the difference between the cost of pulp wood in the United States and the cost of pulp wood in Canada. It seems fairly reasonable to suppose, too, that the pulp wood, which only grows north of the forty-fifth degree of latitude, will be exhausted in the United States or remain in control of a few persons, because of the drain of the American mills.

"It is of the highest importance, therefore, not only to the consumers, but to the manufacturers of print paper, in order that they may secure their raw material at a reasonable price, to secure a letting down of the bars in Canada for the exportation of pulp wood. The Provinces of Canada have control over the Crown lands, in which nine-tenths of the pulp wood is grown, and they have imposed restrictions and export duties of various kinds upon the pulp wood in the Crown lands, in order to prevent the export of the wood except in the form of paper. The agreement provides that whenever the Canadian Provinces remove all restrictions upon the exportation of pulp wood, then Canada will permit American paper to come in free into Canada and the United States will permit Canadian paper to come in free into the United States. This exact agreement is not embodied in the bill as recommended to the House by the Ways and Means Committee and as passed by the House. Instead, in order to induce the Canadian Provinces, over whom the Dominion can exercise no control, to lift the restrictions upon the exportation of their pulp wood, it is provided that when the paper is made in Canada from wood grown on land not under export restrictions the paper may come into the United States free; and it is hoped that the difference of $5.75 between the duty on paper from restricted wood and no duty on paper made from unrestricted wood will induce the Provinces to lift their restrictions. It seems to me that this is treating the paper manufacturers of the United States fairly. It is a provision calculated to secure to them a source of supply where they can get their wood at $5 less a ton than in this country, with the disadvantage of a small competition of paper made in Canada from Canadian wood upon which there is no restriction. It is a provision looking far into the future, and which we all hope may create a condition of absolutely free trade in paper and its materials, a condition that some candid and sagacious paper manufacturers will admit is the best thing for the industry, as it certainly is for the consumers.

"In the first class comes what is known as the Root amendment. Mr. ROOT proposes an amendment to the bill as it came from the House embodying the exact terms of the reciprocity agreement with reference to paper and material—that is, a provision that when the restrictions on the exportation of pulp wood from Canada are removed by the Provinces so that pulp wood may come in free into the United States without the payment of an export duty, then there may be free trade between Canada and the United States in print paper. The pending bill provides, as I have already stated, that in order to induce the lifting of the restrictions which are now imposed by the Canadian Provinces on wood from Crown lands, which includes about nine-tenths of the Canadian wood, paper made in Canada from wood upon which there is no restriction in Canada may come in free. It is only fair to say, with reference to the Root amendment, that it is in exact accordance with the agreement. But it does not offer the inducement to the lifting of the Canadian restrictions which the present provision in the bill does. More than this, there are so many in favor of the provision in the bill as it passed the House that I fear that its adoption in the Senate might prove a tactical obstacle to the passage of the bill through both Houses."

Two things are perfectly evident to my mind: First, that with regard to print paper, wood pulp, and pulp wood there was no real agreement arrived at between the negotiators representing Canada and the United States. The obstacle lying in the way was what may be properly called the "state rights" of the Canadian Provinces. All that the Dominion Government of Canada could promise was to do whatsoever was in its power to do in order to induce the removal of restrictions upon exportations, so that the two Governments, without coming to any executable agreement—the two national minds not meeting upon any common ground within the power of the Canadian Government constitutionally to occupy—agreed upon a lot of "ifs" and "ands," as if one had said to the other: "If you will try to bring about this result, I will try to bring about that result."

The Canadian Government, in the bill now pending before the Canadian Parliament, uses the following language under the head of "Articles free of duty":

"Pulp of wood, mechanically ground; pulp of wood, chemical, bleached or unbleached; news-print paper and other paper, and paper board, manufactured from mechanical wood pulp or chemical wood pulp, or of which such pulp is the component material of chief value, colored in the pulp, or not colored, and valued at not more than 4 cents per pound, not including printed or decorated wall paper.

"*Provided*, That such wood pulp, paper, or board, being the products of the United States, shall only be admitted free of duty into Canada from the United States when such wood pulp, paper, or board, being the products of Canada, are admitted from all parts of Canada free of duty into the United States."

This proves Canada's good faith. She is trying to bring about the result that she promised. It is her part of the undertaking.

Our Government attempts to meet the situation by giving free entry as an inducement to the lifting of the Canadian restrictions by the Provinces. It seems to me to be evident that that is the only way in which the lifting of the restrictions upon exportations of the raw materials from Canada can be secured. Our manufacturers can not get their spruce from Canada on any other plan. It seems equally evident that the Root amendment will defeat the purposes of both Governments, although in language it pretends to strive to execute that purpose.

If print paper and wood pulp made out of wood in Provinces which have removed the restriction be permitted to come in free to us, while the duty remains upon print paper and wood pulp and pulp wood made out of Canadian wood in Provinces which have retained the restriction, then it is evident that it becomes to the immediate interest of the wood and wood pulp and paper people of Canada to bring to bear every inducement upon the Provinces not removing restrictions to get them to remove the restrictions, thus benefiting our consumers and our manufacturers of paper.

I am in favor of a majority of the amendments that were offered in committee and that will be offered upon the floor of the Senate if offered as original propositions, standing upon their own merits, but I am not in favor of them as amendments to this bill, because I think that their effect in all cases and their purpose in most cases is to defeat Canadian reciprocity, either by means of causing an adverse vote upon the proposition as thus amended in the Senate or by forcing a protectionist President to veto the bill as passed.

I regret that it was not found possible in our negotiations with Canada to remove the duty on dressed meat and flour going from each country into the other. I am willing to admit dressed meat and flour into the United States, not only from Canada, but from all the world, though I would much prefer that a slight revenue duty, not enough to interfere with possible importations, were levied.

I am in favor of the House farmers' free-list bill, with some immaterial amendments, but I am not in favor of it as an amendment to this bill, because I think the result of putting it on would be to defeat the bill, and I suspect, not discourteously, I hope, that the purpose in putting it on is to defeat the bill. I am not willing to run the risk of defeating two measures that I favor merely to escape criticism for not having voted to tack one of them as an amendment upon the other. My constituents have plenty of sense to understand the real situation and the shallowness, if not bad faith, of the criticism.

When I want two things, I want both, but if I can't have both, then I want the one I can get. Not only is it true that I would, as original propositions, favor most of the amendments offered, but I could easily

write down several hundred others that I would like to put upon the statute books, reducing the burden of tariff taxation upon the people. But I see no particular sense in refusing to shoot a rattlesnake because I can not at the same time shoot an anaconda. This is especially true if the anaconda is not within effective gun range.

JOHN SHARP WILLIAMS.

Substantially and in the main I agree with the above statement of Senator Williams's views.

WM. J. STONE.

I am for the Canadian reciprocity bill because it looks to freer trade and more intimate commercial relationship between this country and Canada. I am opposed to the Root amendment for the reasons so well stated by Senator WILLIAMS. I would be glad to support any of the proposed amendments which, in independent and additional sections, provide for reductions in tariff taxation if the reciprocity bill, with such amendments, could command enough votes to insure its passage. But, believing that the reciprocity bill will pass the Senate without the amendments, and would fail of passage with them, I can see but one course to be pursued by the friends of reciprocity, and that is to oppose all amendments which, if added, would likely defeat the measure.

The House of Representatives has passed a farmers' free-list bill, which is now before the Finance Committee of the Senate. It will take but little time for the consideration and passage of that measure, or one of similar import. I am entirely willing to support any measure, no matter by whom proposed, which looks to a reduction of the tariff burdens, but I am not willing to imperil the success of any one measure looking to the relief of the people by amalgamating it with another, when it is apparent that such amalgamation will defeat both. If Republican Senators who have proposed amendments to the reciprocity bill looking to tariff reduction are earnest and sincere in such action they will gladly join with the Democrats in the support of the reform measure already enacted by the House and now pending before the Finance Committee of this body.

JNO. W. KERN.

Mr. HEYBURN obtained the floor.

Mr. LA FOLLETTE. I ask the Senator from Idaho if he will yield to me to offer a minority report upon this bill?

Mr. HEYBURN. Is it to be read?

Mr. LA FOLLETTE. No; I do not ask to have it read.

Mr. HEYBURN. I rose for a kindred purpose; but I yield to the Senator.

Mr. LA FOLLETTE. I wish to file or to present my views adverse to the passage of the bill.

The VICE PRESIDENT. They will be printed in the RECORD and printed as a part of the document. All the reports will be printed as one document when they are all received.

The matter referred to is as follows:

VIEWS OF MR. LA FOLLETTE.

(S. Rept. 63, pt. 2.)

I herewith respectfully submit to the Senate the reasons which compel me to oppose House bill 4412 in its present form.

The pending measure is not a treaty. It is a revenue bill. That it is framed to give effect to a tentative agreement between this and the Canadian Governments in nowise changes its character. It is a tariff bill.

It is not framed upon any principle heretofore recognized in the history of the tariff legislation of this Government. It represents neither the principle of protection nor that of a tariff for revenue only. The only principle which may be fairly said to find consistent expression in this bill is the principle of free trade.

It is perfectly consistent for one who believes in free trade to support it.

I respectfully submit that no man who believes either in a tariff for revenue only or in a protective tariff can consistently give it his support.

In the belief that duties should represent the difference in the cost of production at home and abroad, with others I contended, when the Payne-Aldrich tariff bill was pending, for reductions in duties to that level in so far as the information then at hand furnished any safe criteria to determine rates upon that principle.

I shall continue to advocate tariff legislation based upon that principle.

I believe in reciprocity. I believe in reciprocity with Canada. The mutual give and take of tariff concessions between our country and our world neighbors, along the lines laid down by Blaine and McKinley, is a policy that has in view the best welfare of all concerned. The fair exchange of commercial privileges between the people of two great producing and consuming and interdependent nations must result in good for both.

But I protest against this proposed revision of our tariff by Executive mandate. I protest against this diplomatic bargain that is masquerading in the guise of reciprocity. It is not reciprocity. It is not a fair exchange of tariff advantages between our citizens and the citizens of Canada. It is a tariff trade, conceived in special-interest selfishness, negotiated in secret, and brought into the open with the attractive label of reciprocity as a bid for the favor of the American public—a people who believe sincerely in reciprocity that is genuine.

The injustice and the unfairness of this one-sided arrangement, when fully understood by all people who believe in justice and fair dealing, will meet with the resentment it merits. Reciprocity—true reciprocity—implies a fair exchange between those whose products are the subjects of the exchange. This compact, the ratification of which is demanded without change, without the exercise of a legislative judgment on the part of Congress, is, in plain English, an Executive bargain, the terms of which require the farmer to surrender his market at an enormous loss to secure valuable concessions to a few prosperous special interests. That is all. President Taft's Canadian pact will increase the profits of the railroads, the milling interests, and the Beef Trust.

The railroads, particularly the Hill line, has 15 or 20 branches extending far up into the wheat-producing sections of Canada. Mr. Hill is one of the strongest supporters of the President's pact. He hungers for the big tonnage to flow from Canadian wheat into a free American market. The effect of this competition on our farmers does not concern him. There will be no reduction in his international freight rates.

The milling interests approve of the President's pact. They want the cheaper wheat which will result from a Canadian glut of the northern American market. The millers are safe. Canadian flour can not come in free to compete with them. The farmer can take his cut in prices. The price of flour will not be affected.

The Beef Trust regards President Taft's Canadian deal as a good thing. It means free cattle and sheep for the packing houses. This strengthens the position of the trust and makes it easier to hold down prices for American cattle and sheep. The trifling reduction of duty on dressed meats will in nowise interfere with the firm control of the price of dressed meats by the packers. It will put from $12 to $18 in the pocket of the packer to remove the duty from the fat steer. It will cost the consumer whatever the packer pleases to charge for dressed meats under the President's pact.

Our great consuming public must still buy what it uses in a highly protected market. And the farmer, as a consumer, gets no compensating benefit in what he has to buy. He is asked to sell what he produces in a free-trade market and buy what he needs in a protected market.

If there is any justice at all in a protective tariff, it must be found in the impartial application of it to all industries. This proposed agreement does violence to that principle. It singles out the farmer and forces free trade upon him, but it confers even greater benefits upon a few of the great combinations sheltered behind the high rates found in the Payne-Aldrich tariff.

The American farmer, through years of patient toil, has given his support to protection to build up the manufacturing interests of the country. The protective tariff directly benefited his own industry to a far less degree than any other great interest in this country. Through all those years there was held out to him the promise that if he would pay the higher prices necessary to maintain a high wage scale for the men in the factories he would be compensated by the better market for his produce—the home market at his own door.

This home market has been at last developed. Now it is proposed that he shall divide this market with Canada. The injury to our agricultural interests that will result from such an arrangement will be appalling—not alone the tens of millions of dollars annually, great as that will be, but also in the incentive to apply to our lands the intensive cultivation and scientific management which alone will enable our business of tilling the soil to be successfully continued at all.

This agreement is not in the interest of the consumer. Relief from the high cost of living is not to be found in such a tariff compact as that represented in the pending bill. What avails it, for example, to bring the supply of Canadian wheat and cattle and sheep into our country free when we still must pay the same price for flour to our millers and the same price for dressed meats to our packers?

It is not necessary to wrong any class or do injustice to any interest in order to benefit the consumer. And it is scarcely less than criminal to make a scapegoat of the farmer for the benefit of any unlawful combination.

President Taft and the Congress had ample opportunity to benefit every consumer and substantially reduce the cost of living in every home by revising duties downward as promised when the Payne-Aldrich tariff bill was enacted—and that, too, without impairing the just measure of protection on any article of production in any industry.

The combined forces that stand between the American farmer and the full enjoyment of his own market—that home market he suffered so much to create—will continue to interpose between the consumer and the necessaries of life. Wheat is free; but there will be a tariff of 50 cents a barrel upon flour. Live stock is free; but there is provided a tariff of 1¼ cents a pound on fresh meats, bacon, hams, and dried or otherwise prepared meats, of 20 per cent on canned meats, canned poultry, and extract of meat. Flaxseed is free; but on its product, linseed oil, there is a tariff of 15 cents a gallon. Something far different from this arrangement, with regard to foodstuffs, is needed to reduce the cost of living.

No relief from the excessive cost of living will result from the changes in the tariff on the manufactures covered by this agreement. While Canada is our formidable competitor, actually and potentially, in agriculture, we have now such an overwhelming advantage that we need never fear that Canadian manufacturing will threaten our supremacy on this continent. If the statement of President Taft that the cost of production is substantially alike in the two countries is true as to manufactures, what possible hope is there for Canadian capital to build mills and compete with our great and established industries over a tariff wall? The facts do not warrant the contention that our consumers will be able to purchase manufactured articles any cheaper if this agreement passes.

It is not the farmer, it is not the consumer, for whom these negotiations were made. It was made to benefit the railroad, the miller, the packer, the newspaper publisher.

The newspaper publishers are promised a free market for print paper, for which they expend about $55,000,000 annually. No one who investigates the conditions under which the newspapers of this country have been compelled to purchase their supply of print paper can escape the conclusion that the publishers have been subjected to extortion. Prices have been arbitrarily fixed for them, and to keep their enterprises going they have been forced to submit to exactions unwarranted by conditions in the wood-pulp and paper-making industries—conditions rendered possible only because of the unlawful trust organizations of the paper manufacturers.

It is a matter of common knowledge that the newspaper publishers have had to accept whatever contracts the Print Paper Trust offered them to sign or be denied a paper supply with which to continue business. It is true the hearings of the committees of Congress contain many denials by paper manufacturers of the existence of this trust, but against these are the indictments, pleas of guilty, convictions, and fines, all of record, in more than 50 instances.

The conditions under which the publishers of newspapers are forced to conduct their business are intolerable. These conditions call for action which will afford immediate relief. It should be dealt with directly and not by indirection. The removal of this duty, in justice to the users of paper, should be the direct and deliberate action of Congress. It is our right and duty to fix the tariff on certain varieties of pulp and paper so as to best serve the interests of our country. All of the evidence sustains the contention for the immediate removal of the duty.

I am satisfied from the recent investigations made by the Tariff Board that, with the exception of wood pulp, we can manufacture paper on an even basis with Canadian manufacturers. Therefore, I believe we should, in accordance with the principle that the tariff should be based

on the difference between the cost of production here and abroad, remove the present duty from print paper. The proposed method of doing this, however, can not in justice be approved. However just the demands of the publishers to be relieved from the oppressive prices fixed by the paper makers' combination, it does not outweigh the gross injustice of this pact. It is the duty of Congress to put print paper on the free list. It is not the duty, nor should it be made the privilege, of the Executive to secure this concession from Canada at the expense of our agricultural interests.

Furthermore, this scheme of tariff revision is an invasion of the legislative branch of our Government by the Executive. Strip it of the enticing name that has been given to it and it is plain tariff revision. And as tariff revision it is even more iniquitous than the Payne-Aldrich revision. It is not scientific. It is not the product of the Tariff Board. It can not be defended even as an attempt to lower our excessive duties on a schedule-by-schedule plan. Why cut off the low duties on farm products that oppress nobody and leave untouched the flagrantly high and burdensome duties on trust-made necessities?

The history of this pact discloses the same sort of influences, the same secret conferences, the same consideration for powerful interests that characterized the framing of the Aldrich schedules. Beginning with personal conferences between the big beneficiaries and the administration, and coming before us now with all the pressure of administrative influence behind it, we are confronted with a situation not unlike that of two years ago in the Senate. Like that other revision, too, this is marked by the same trading and bartering that always has worked so much injustice upon the public. The influential interests, as always, were on hand. But not the farmer. The farmer had no voice in this agreement. He had no part in the changing of the schedules, though he is more seriously affected than all others. This is not the kind of tariff revision demanded by the American people. Downward revision mandates will not be satisfied by such administrative bargaining.

There are already indications that this pact, if ratified by Congress, will involve the United States in serious tariff and trade complications with other countries. It will place us in the dilemma of making similar diplomatic bargains with the great nations of the whole world. I refer to the "most-favored-nation" clause of commercial treaties and to the maximum and minimum provision of the Payne-Aldrich tariff law. Our Government has steadfastly and consistently pursued the policy in negotiating tariff treaties that when the "most-favored-nation" treatment is accorded to one country it is also, and as a matter of right, accorded to any other country that extends to us similar concessions. This traditional policy was complicated by the maximum and minimum provision of the Payne-Aldrich Tariff Act.

Now, if this new tariff arrangement with Canada is consummated, we shall be placed in the position of establishing a new set of minimum tariff rates, which, under our well-settled diplomatic policy and the maximum and minimum clause, would force the Department of State to enter into negotiations with any country that wished to receive the same treatment as Canada under the "most-favored-nation" clause. To refuse these demands would be to abandon our traditional policy, would precipitate international tariff complications, and may imperil our whole tariff structure. That there is real danger in this direction is indicated by the fact that the question has been raised in the British Parliament and the fact that there have been inquiries, understood to have come from Germany, as to the answer of the United States on the question of extending the rates provided in the Canadian agreement to the products of that country.

The gross injustice of the proposed bill impels me to oppose it. I recognize no canon of right and fair dealing that would permit me to support it in its present form. If, however, it is to be enacted into law, it should not pass without amendments in the interest of the great body of consumers, including the farmers, who are compelled to carry all the burden of the President's lopsided pact. If agriculture is to be legislated out of $60,000,000 to $70,000,000 to help Mr. Hill's railroad to larger dividends, the millers and the packers to larger profits, and the newspapers to free themselves from trust extortion, then we should avail ourselves of this opportunity to reduce in some reasonable measure the excessive tariff burden and the high prices which the farmers and other consumers are required to pay for all they buy.

This is a tariff measure. It is my conviction that until such time as scientific investigation shall enable us to adjust all schedules on the difference-in-cost principle there should be no effort spared whenever the subject of tariff revision is before Congress to reduce the notoriously excessive duties as a means of affording immediate, even though partial, relief to the consumer. So, in the present instance, we have the opportunity to reduce to a considerable extent the cost of living by revising downward a few of the most excessive schedules, such as manufactured wool, cotton, sugar, iron, and steel.

I purpose to offer amendments providing for a complete revision of the wool and cotton schedules of the present Payne-Aldrich tariff law, revision of the rates on structural iron and steel, and certain other paragraphs of that schedule; also amendments revising the sugar schedule. Such revision downward, while reducing our Government revenues less than $10,000,000 annually, will effect a reduction in the cost of living by lowering prices to the consuming public aggregating more than $200,000,000 a year.

I shall ask that all duties on manufactures of wool in Schedule K be placed squarely on an ad valorem basis, with an average reduction of 25 per cent. The character of Schedule K as to all manufactures of wool is well known to the public. Its fraudulent compensatory duties, its unfair discrimination against the carded-wool manufacturers in favor of the worsted-goods manufacturers, and its iniquitous discrimination against the poor man's cloth in favor of that of the rich man have all been exposed in detail. The ad valorem rates proposed in my amendments will wipe out completely the inequality that is found in the existing rates—rates that rise higher and higher as the value of the cloth declines, exceeding 200 per cent on the cheapest while dropping as low as 80 per cent on the most expensive cloths.

These amendments will not affect the woolgrower. They provide reasonably ample protection for all manufacturers of wool. The consumer is no longer left completely at the mercy of the manufacturer.

Like the wool tariff, the cotton tariff—Schedule I—lays its unreasonable burdens upon the backs of the great mass of people who can not afford the expensive cotton goods. It does this through the complex classifications providing enormous duties on certain articles and relatively insignificant duties on other articles. My amendments to this schedule contemplate an average reduction of 7 per cent ad valorem.

If adopted, they will, at a stroke, eliminate from this schedule the excesses and discriminations which cost the consuming public, and particularly that portion of it least able to pay the price, not less than $50,000,000 annually. In this amendment, however, as in the amendment to Schedule K, I have left a margin in favor of the manufacturer, pending the report of the Tariff Board, as a basis for further revision in accordance with the exact difference between the cost of production in this and competing countries.

Mr. HEYBURN. I desire to say it was understood that any member of the committee might file personal views, either singly or in connection with other members, when the measure was reported. I should like to reserve that right to myself, as a member of the committee. I am not yet really determined in regard to it.

Now, I desire to say something else. Inasmuch as the door has been opened a part of the way, in regard to the committee's work, it is well enough that it should be opened sufficiently so that there may be no false impressions in regard to it.

The vote on the resolution or motion which I had the honor to introduce—that this bill be reported adversely—resulted in a tie vote, and I do not desire it to appear that I favored either a favorable report or the report that has been made. I believe that it was the duty of the committee, if they could not agree, that they should do nothing. That is my idea.

Mr. DIXON. Will the Senator yield to me for a question?

Mr. HEYBURN. Yes.

Mr. DIXON. I should like to know how this committee viewed the bill. Three leading Democratic members of the committee have filed a report favoring its adoption. The Republican Senator from North Dakota [Mr. MCCUMBER] has just filed and had read a very argumentative discourse to show why it should not be adopted. As I understand it, the Senator from Idaho [Mr. HEYBURN], another Republican Member, is against the passage of the bill.

Mr. HEYBURN. I moved that it be reported adversely.

Mr. DIXON. Yes. How did the committee stand? Were the Republican members for the bill or the Democratic members for it?

Mr. HEYBURN. It stood 7 to 7 on the motion which I made that it be reported adversely.

Mr. DIXON. But how was the committee divided as to the Republican membership, which supposedly represents the policy of protection, and as to the Democratic membership, which supposedly leans toward free trade?

Mr. HEYBURN. I can not speak of any other member.

Mr. DIXON. I want to know what is the policy of the Republican Party as represented by the Finance Committee.

Mr. BAILEY. Which part of the Republican Party?

Mr. DIXON. Any part of it.

Mr. LODGE. I desire merely to say in reply to the Senator from Montana that I made the motion to report the bill favorably, and that motion was voted down in the committee by a vote of 8 to 6. That vote of 6 was composed of 3 Democrats and 3 Republicans.

Mr. DIXON. Is there any objection to stating to the Senate who they were?

Mr. LODGE. Three Democrats joined in the report. I have not the slightest objection to stating what has been already stated in every newspaper in the country, that the Senator from Pennsylvania [Mr. PENROSE], the Senator from Illinois [Mr. CULLOM] and myself were the three Republicans who helped compose the six who were defeated on that motion. Some Senators have filed individual minority reports. The Senator from Mississippi [Mr. WILLIAMS] has filed an individual report in favor of the bill. Those Republicans who voted for a favorable report will, in their own time and method, say what they have to say in defense of their position. They did not think it necessary to file their views in the form of a report. The chairman of the committee was, of course, debarred from doing that because the action of the committee bound him, and the action of the committee was that he should report the bill without recommendation. He had no right, therefore, to make a report.

Mr. DIXON. The Senator from Massachusetts, as I understand it, then——

The VICE PRESIDENT. Does the Senator from Idaho yield further?

Mr. HEYBURN. I will yield to the Senator from Montana [Mr. DIXON], inasmuch as he had the floor.

Mr. DIXON. Then Mississippi and Massachusetts and Pennsylvania struck hands in reporting the bill favorably to the Senate.

Mr. BAILEY. And left Montana out.

Mr. DIXON. And Montana is out.

Mr. PENROSE. I presume the resolution of the Legislature of Montana in favor of reciprocity had weight with some of the Republican members of the committee.

Mr. GALLINGER. Mr. President——

Mr. HEYBURN. I yield to the Senator from New Hampshire.

Mr. DIXON. If the Senator from Pennsylvania [Mr. PENROSE] wants a history of the Montana Legislature, I will give it to him.

Mr. GALLINGER. Mr. President, in the hope that what I say may comfort my friend from Montana [Mr. DIXON], I wish to say to him that I always am a consistent protectionist.

Mr. DIXON. I am glad to hear that.

Mr. GALLINGER. I opposed the bill to the best of my ability in committee, and I shall vote against it here. The Senator from Montana will recall that in the last Congress, with a pressure that was almost unprecedented, particularly from Massachusetts, I voted with the western Senators to keep the duty on hides, and I believe now that duty ought never to have been taken from hides.

Mr. OVERMAN. That is because the Senator believes that it is opposed to the theory of protection.

Mr. GALLINGER. I believe it is, if I understood the Senator correctly. The Democratic leader in the House of Representatives has somewhat openly declared that this takes out the foundation stone from the doctrine of protection; that they have started on a movement that will absolutely destroy protection in the country. I believe that to be the fact, and I think the Senator is cooperating to bring that about.

Mr. HEYBURN. Mr. President——

Mr. OVERMAN. And that is the reason the Senator from New Hampshire is opposed to it.

The VICE PRESIDENT. The Senator from Idaho [Mr. HEYBURN] has the floor.

Mr. HEYBURN. Mr. President, I think the Member referred to by the Senator from New Hampshire is a prophet, subject to the condition that there are enough Republicans in this country to defeat the destruction of the temple. That is the condition that will prevent it. I made no reference to any party organization. I spoke of Republicans, and it is the Republicans that vote, and not the organization.

Mr. President, my only purpose in retaining the floor was that I might make this statement. When the press sent out an account of the proceedings had in committee with reference to this bill after the hearings had closed, it made no proper or truthful statement as to the vote on the question of an adverse report—accidental probably—but they seemed to think that the country was not at all interested in knowing that the committee voted seven to seven on a direct motion to report the bill adversely.

Mr. CURTIS. Mr. President, it was my intention to submit some remarks upon this agreement during the afternoon, but I understand there is to be a caucus. So I desire to give notice that to-morrow I shall submit some remarks on the bill.

Mr. BAILEY. Mr. President, as I intend at an early day to address the Senate in opposition to this measure, I have not deemed it necessary to file any views upon it, and I shall not now detain the Senate longer than to say that I can demonstrate, and I shall demonstrate on the floor of the Senate, that in respect to its principal items this bill affords the manufacturers a larger protection than does the existing law. I shall not attempt that demonstration by an elaborate argument to which Senators may make a reply, but by a simple process of addition and subtraction I can make it plain to the people of this country that this treaty lodges a large per cent of what it takes from the Government in the pockets of the manufacturer, while it passes a small remnant over to the consumer. If I can make that demonstration, I shall have no difficulty in satisfying my Democratic constituents, and, what is more important to me, I shall have no difficulty in satisfying my Democratic conscience for my opposition to the bill.

Mr. CLARK of Wyoming. Mr. President, not by way of confession nor by way of avoidance, I will say that I may or may not before this bill is placed upon its final passage submit my views. More than likely I shall not except by my vote. That has been my course in the Senate almost without deviation for many years, because I have felt that each Member of the Senate could well form his own views from his own investigation and is not often moved, although sometimes probably he is persuaded, by the arguments and investigation of others.

So far as this report is concerned, as a member of the committee I have no desire to file my individual views. As a member of the committee I thought the Senate was entitled to the considerate and mature judgment of that committee on the merits of the proposition that was presented to it. Upon the motion of the Senator from Idaho [Mr. HEYBURN] that the bill be reported unfavorably to the Senate I voted "yea"; upon the motion, which I think was offered by the Senator from Massachusetts [Mr. LODGE], that the bill be favorably reported to the Senate, I voted "nay"; upon the motion that was subsequently made, that the bill be reported to the Senate without recommendation, I voted "nay," because I believed that up to that time the committee had not discussed the matter sufficiently after the evidence had been in, so that we were justified in depriving the Senate of the results of our mature deliberations if they should be of any value.

Mr. President, I have not changed by opinion since that vote was had in the committee. Whether or not I shall change it in the future, depends upon the investigation which I myself shall make. All my inclinations will be against changing the view, because I have believed as I have scanned this bill that it is a direct blow at the Republican doctrine of a protective tariff. I hope that the deliberations of the Senate will result in a wise conclusion. That conclusion I shall not challenge when it is registered, but I shall hope that the conclusion reached by the Senate will coincide with the view that I now hold.

Mr. CULLOM. Mr. President, I do not propose to make any statement to-day further than that I am in favor of the bill and shall so vote, unless I become converted before the discussion is over and convinced that I was in the wrong.

I rise now to state that it has been suggested that there is to be a caucus this afternoon, and I move that the Senate adjourn until 12 o'clock to-morrow.

Mr. GORE. Mr. President——

The VICE PRESIDENT. Does the Senator from Illinois withdraw his motion?

Mr. CULLOM. I do, for the present.

Mr. GORE. Mr. President, I wish to say that I would not offer, and I shall not favor, any amendment to the Canadian agreement that would probably effect its defeat or imperil its final passage. I shall vote for that measure, no matter what form it may assume, if it reduces a single duty on a single article, and I will not aid in tying any sinkers upon that agreement.

I shall, Mr. President, however, propose an amendment to place the following articles on the free list: Flour, meal, dressed meats, packing-house products, and farming implements, the product of Canada when imported into the United States from the Dominion of Canada. This amendment is in harmony with the spirit of the agreement and is not at war with its motive or its object. If we treat the Canadians better than they ask, if we treat the Canadians better than they expect, that can constitute no ground of complaint. An amendment which will treat the American consumer better than the pending measure would constitute no complaint on the part of our own citizenship. I offer the amendment which I send to the desk and ask that it be printed and lie upon the table.

I wish merely to add, Mr. President, that I shall be governed by circumstances in pressing the amendment upon the consideration of the Senate. If I find the amendment can be adopted, and that the measure so amended can pass the Senate, I shall then invite its consideration by this body; but if the adoption of this amendment would imperil the passage of the bill, I shall not press the amendment and I would not support the amendment.

The VICE PRESIDENT. The amendment proposed to be offered by the Senator from Oklahoma will be printed and lie upon the table.

ELECTION OF SENATORS BY DIRECT VOTE.

Mr. REED. Mr. President, a number of Senators have expressed the desire to have the opportunity to examine the question which was discussed this afternoon as to the right of the President of the Senate to cast the deciding vote on the amendment offered to the proposition to amend the Constitution. I want to say now that when I made the suggestion on yesterday that I doubted the right of the President of the Senate to vote on that question, I said then, and repeat now, that it is a matter upon which I have arrived at no final conclusion, but I thought it a question of such gravity as to merit consideration, and to the end that we may all have the opportunity to give it full and fair examination, not only because of its importance with reference to the matter which I may say is yet pending, but with reference to future business of the Senate, I desire to move at this time a reconsideration of the vote taken on the joint resolution proposing an amendment to the Constitution, and also a reconsideration of the vote taken upon the amendment offered by the Senator from Kansas [Mr. BRISTOW].

The VICE PRESIDENT. The Chair can not recognize the Senator from Missouri to make the second motion. He can recognize him to make the first motion, but the Senator from Missouri voted against the second proposition.

Mr. REED. Very well.

The VICE PRESIDENT. The Senator from Missouri moves to reconsider the vote by which House joint resolution 39 was passed on yesterday.

Mr. LODGE. Mr. President, I take it the Senator from Missouri does not expect action on that motion immediately.

Mr. REED. No, sir; I was about to ask—and I am glad to have the matter settled, Mr. President, as to my right—I was about to ask to have this matter lie upon the table, and I will say now to Senators, some of whom desire to leave the city, that I shall not call it up this week.

The VICE PRESIDENT. May the Chair call the attention of the Senator from Missouri to the fact that such a motion, when a bill or joint resolution has passed out of the consideration of the Senate, as in this case, must be accompanied by a motion requesting the other House to return the bill or joint resolution, and the latter motion must be acted upon at once under clause 2 of Rule XIII?

Mr. REED. I was not aware of that rule. My attention had not been called to it.

The VICE PRESIDENT. May the Chair read it to the Senator?

Mr. REED. I shall be glad to hear it.

The VICE PRESIDENT. The rule reads:

When a bill, resolution, report, amendment, order, or message, upon which a vote has been taken, shall have gone out of the possession of the Senate and been communicated to the House of Representatives, the motion to reconsider shall be accompanied by a motion to request the House to return the same; which last motion shall be acted upon immediately and without debate, and if determined in the negative shall be a final disposition of the motion to reconsider.

Mr. REED. Mr. President, I am very much in earnest about the desire to have this question settled right. I intend, so far as I am able, to examine the proposition, and if I conclude that the point is not well taken, to say so in this body. I now ask unanimous consent for the adoption of a motion to recall the joint resolution from the House of Representatives. I fear I have not put it in proper form.

The VICE PRESIDENT. As the Chair understands, then, the Senator from Missouri moves to reconsider the vote by which the joint resolution was passed and to request of the House of Representatives a return of the joint resolution.

Mr. REED. That is exactly it. I do not have the rules before me.

The VICE PRESIDENT. And upon the latter motion the Senator from Missouri asks unanimous consent that the request be agreed to. Is there objection?

Mr. DIXON. Mr. President, I object.

The VICE PRESIDENT. Objection is made. The question, then, is on agreeing to the motion to ask the House of Representatives to return to the Senate the joint resolution.

Mr. DIXON. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. TILLMAN], and therefore withhold my vote.

Mr. BACON (when Mr. FRYE's name was called). I have a general pair with the Senator from Maine [Mr. FRYE]. I have already voted. I have done so because I have arranged to transfer my pair with the Senator from Maine to my colleague the Senator from Georgia [Mr. TERRELL], so that the Senator from Maine will stand paired with the Senator from Georgia.

Mr. GUGGENHEIM (when his name was called). I have a general pair with the senior Senator from Kentucky [Mr. PAYNTER]. As he is not present, I will withhold my vote.

Mr. McCUMBER (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. PERCY]. He being absent, I will withhold my vote.

Mr. LODGE (when Mr. ROOT's name was called). The Senator from New York [Mr. ROOT] is unavoidably absent. He is paired with the Senator from Nevada [Mr. NEWLANDS], and that pair will stand for the afternoon.

Mr. WARREN (when his name was called). I have a standing pair with the senior Senator from Louisiana [Mr. FOSTER]. I do not know how that Senator would vote if present, and I therefore withhold my vote.

The roll call was concluded.

Mr. BRADLEY (after having voted in the negative). I find that the Senator from Tennessee [Mr. TAYLOR], with whom I have a general pair, is not present. I therefore withdraw my vote.

Mr. GALLINGER (after having voted in the affirmative). I voted inadvertently. I have a pair with the Senator from Arkansas [Mr. DAVIS], and I therefore withdraw my vote.

Mr. CHAMBERLAIN (after having voted in the affirmative). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER], and I desire to withdraw my vote.

Mr. DILLINGHAM. I transfer my pair with the senior Senator from South Carolina [Mr. TILLMAN] to the junior Senator from Massachusetts [Mr. CRANE] and vote. I vote "yea."

Mr. O'GORMAN (after having voted in the affirmative). I voted inadvertently in the absence of the Senator from Rhode Island [Mr. LIPPITT], with whom I am paired. If the Senator from Rhode Island were present, he would vote "nay," and I should vote "yea." As he is absent, I withdraw my vote.

Mr. MYERS. I am paired with the Senator from Connecticut [Mr. McLEAN], but I transfer that pair to the Senator from Maryland [Mr. SMITH] and vote. I vote "yea."

Mr. JONES. My colleague [Mr. POINDEXTER] is unavoidably detained from the Chamber. I do not know how he would vote if present.

Mr. JOHNSTON of Alabama. I desire to announce that the junior Senator from South Carolina [Mr. SMITH] is paired with the junior Senator from Delaware [Mr. RICHARDSON].

Mr. NEWLANDS. I am paired with the Senator from New York [Mr. ROOT]. I transfer that pair to the Senator from Oklahoma [Mr. OWEN] and vote. I vote "yea."

The result was announced—yeas 33, nays 33, as follows:

YEAS—33.

Bacon	Heyburn	Myers	Smoot
Bailey	Hitchcock	Newlands	Stone
Bankhead	Johnson, Me.	Overman	Swanson
Bryan	Johnston, Ala.	Page	Thornton
Chilton	Kern	Pomerene	Watson
Culberson	Lea	Rayner	Williams
Dillingham	Lodge	Reed	
Fletcher	Martin, Va.	Shively	
Gore	Martine, N. J.	Simmons	

NAYS—33.

Borah	Clark, Wyo.	Gronna	Smith, Mich.
Bourne	Clarke, Ark.	Jones	Stephenson
Brandegee	Crawford	Kenyon	Sutherland
Briggs	Cullom	La Follette	Townsend
Bristow	Cummins	Lorimer	Wetmore
Brown	Curtis	Nelson	Works.
Burnham	Dixon	Nixon	
Burton	du Pont	Penrose	
Clapp	Gamble	Perkins	

NOT VOTING—25.

Bradley	Guggenheim	Paynter	Taylor
Chamberlain	Lippitt	Percy	Terrell
Crane	McCumber	Poindexter	Tillman
Davis	McLean	Richardson	Warren
Foster	O'Gorman	Root	
Frye	Oliver	Smith, Md.	
Gallinger	Owen	Smith, S. C.	

The VICE PRESIDENT. On the motion to recall the joint resolution from the House of Representatives the yeas are 33 and the nays are 33. The motion is lost.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GUGGENHEIM:

A bill (S. 2733) for the relief of the estate of Almon P. Frederick; to the Committee on Claims.

By Mr. BRADLEY:

A bill (S. 2734) granting an increase of pension to Alexander H. Farmer; to the Committee on Pensions.

By Mr. PAYNTER:

A bill (S. 2735) granting a pension to Henderson Ramey; to the Committee on Pensions.

By Mr. BOURNE:

A bill (S. 2736) granting an increase of pension to Edward D. Hagen (with accompanying papers); to the Committee on Pensions.

By Mr. LORIMER:

A bill (S. 2737) to amend the military record of Patrick McGough (with accompanying paper); to the Committee on Military Affairs.

A bill (S. 2738) granting an increase of pension to Thomas Penwarden;

A bill (S. 2739) granting an increase of pension to Edward S. Clithero;

A bill (S. 2740) granting an increase of pension to Mary J. Forbes;

A bill (S. 2741) granting an increase of pension to Maria Raum;

A bill (S. 2742) granting an increase of pension to Henry Kirk (with accompanying papers);

A bill (S. 2743) granting an increase of pension to J. W. Gladson (with accompanying papers);

A bill (S. 2744) granting an increase of pension to Joseph W. Eystra (with accompanying papers);

A bill (S. 2745) granting an increase of pension to William J. King (with accompanying papers); and

A bill (S. 2746) granting an increase of pension to Stiles H. Wirts (with accompanying papers); to the Committee on Pensions.

By Mr. CLARKE of Arkansas (for Mr. PERCY):

A bill (S. 2747) for the establishment of a drainage fund and the construction of works for the reclamation of swamp and overflowed lands; to the Committee on Agriculture and Forestry.

By Mr. GALLINGER:

A bill (S. 2748) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District (with accompanying paper); to the Committee on the District of Columbia.

By Mr. LODGE:

A bill (S. 2749) authorizing the State Department to deliver to certain persons gifts from the governments of foreign States; to the Committee on Foreign Relations.

By Mr. SUTHERLAND:

A bill (S. 2750) to amend sections 90, 99, 105, and 186 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. STONE:

A joint resolution (S. J. Res. 35) in reference to the employment of enlisted men in competition with local civilians; to the Committee on Education and Labor.

ADJOURNMENT.

Mr. CULLOM. I move that the Senate adjourn until 12 o'clock noon to-morrow.

The motion was agreed to; and (at 5 o'clock and 3 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, June 14, 1911, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June 13, 1911.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Infinite Spirit, Father of all souls, whose wisdom, power, and goodness are everywhere apparent, upholding, sustaining, guiding the works of Thy hands, a potent factor in shaping and guiding the destiny of men and of nations, help us to put ourselves in rapport with Thee, that we may become instruments in furthering Thy plans, that Thy kingdom may come and Thy will be done on earth as it is in heaven. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed, with amendment, joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

H. J. Res. 39. Joint resolution proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 2355. An act extending the time for payment of balance due on purchase price of a certain tract of land.

Mr. BARTLETT. Mr. Speaker, a point of order.

The SPEAKER. The gentleman from Georgia will state his point of order.

Mr. BARTLETT. My point of order, Mr. Speaker, is whether the House can receive a message from the Senate when the Senate is not in session and will not be in session until 2 o'clock.

The SPEAKER. Does the gentleman desire to be heard on his point of order?

Mr. BARTLETT. No, sir.

The SPEAKER. It has been ruled both ways.

Mr. BARTLETT. I have no doubt the Chair is familiar with it, and I am content to make the point.

The SPEAKER. The Chair is suggesting to the gentleman that the rulings have been both ways.

Mr. BARTLETT. I am aware of that. I make the point of order that the Senate is not now in session, and that a message can not be received by one House from the other when the House purporting to send the message is not in session.

Mr. MANN. Mr. Speaker——

The SPEAKER. Does the gentleman from Georgia yield to the gentleman from Illinois?

Mr. BARTLETT. I have finished what I wished to say. I merely make the point.

Mr. MANN. As the Chair has suggested, the former rulings were that neither House could receive a message from the other while the House sending the message was not in session; that the House could not receive a message from the Senate unless the Senate was in session; but the uniform practice of both Houses for many years has been to receive messages, regardless of whether the House that sent the message was in session at the time or not. It seems to me that uniform practice has acquired the force and dignity of a rule and a ruling on the subject.

Mr. BARTLETT. Mr. Speaker, my recollection of the rule, which I have not before me, is that that is true, where no point of order is made upon it, and where the rule is not invoked; but that it has been uniformly held, when the point of order has been made, or the attention of the Chair has been called to the fact from the floor, that the message could not be received. Of course any rule, by unanimous consent or acquiescence, may not be enforced.

The SPEAKER. The Chair would like to make an inquiry of the gentleman from Georgia to help clear up the situation. What is the reason why the House should not receive a message from the Senate when the Senate happens not to be in session more than at any other time?

Mr. BARTLETT. Mr. Speaker, it contemplates that each House is to convey the information to the other House while it is in session. If you can say that one House may adjourn for three hours or four hours, then you may say it may adjourn for three days and convey its messages to the other while not in session. It is not a matter of time; it is a matter of the observance of the rule.

Mr. NORRIS. Will the gentleman yield there?

Mr. BARTLETT. Yes.

Mr. NORRIS. I should like to ask the gentleman how the Speaker of the House would have official notice that the Senate was not in session at the particular moment when the message was received here?

Mr. BARTLETT. That being the rule, it is presumed that the House from which the message is conveyed is in session, and when a message is received in either House, the presiding officer of that House will presume that the other House is in session; but the Journal of the Senate and the RECORD of both Houses inform the Speaker that the Senate is not now in session, and that it will not be until 2 o'clock to-day.

Mr. MANN. If the gentleman will yield, we have not the Journal of the Senate before us.

Mr. BARTLETT. We have the RECORD.

Mr. MANN. We have the CONGRESSIONAL RECORD, but the gentleman would not claim that a statement in the CONGRESSIONAL RECORD was binding in reference to the matter at all. That is not the Journal.

Mr. BARTLETT. Yes; but the Speaker is informed that the Senate is not in session.

Mr. MANN. Informed by the gentleman from Georgia.

Mr. NORRIS. Mr. Speaker, I would like to ask the gentleman a question.

The SPEAKER. Does the gentleman from Georgia yield to the gentleman from Nebraska?

Mr. BARTLETT. Certainly.

Mr. NORRIS. Suppose the message was brought in at 2.30, what right would the Speaker have to assume that the Senate was still in session because it was in session at 2 o'clock? Or, suppose it was brought in at 6 o'clock, there being no regular hour for the Senate to adjourn.

Mr. BARTLETT. Answering the question of the gentleman from Nebraska, the law presumes that both Houses of Congress will, through their public officials, perform the duty and will follow the law and the rules of the Senate and the House. That may be in some instances a violent presumption, but it is a presumption that will apply to the officials of Congress as well as to other public officers.

Mr. NORRIS. Last night, I believe, the Senate did not adjourn until after 9 o'clock. The House was in session at 12 o'clock. It had adjourned the day before to meet at 12 o'clock. Suppose a message had been brought into the Senate at 9